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ABSTRACT

To examine the hypothesis that occupational licensure is primarily a restrictive device to protect those licensed from competition, analysis focused on the licensure of non-professional occupations in Rhode Island, Massachusetts, and Connecticut, covering 36 licenses issued by the three states for 12 occupations (e.g. electricians, barbers, opticians) and 3 sub-classes within those occupations. The study examined the composition of the licensing boards; their policies with respect to prices, advertising, and work constraints; constraints specifically incorporated in legislation; and the examination process. On ten of twelve licensure examinations for which adequate data were available, statistically significant positive correlations were found between failure rates and unemployment rates, supporting the hypothesis. Other findings were that licensing processes generated work restrictions, jurisdictional disputes among occupations, and restrictions on price competition; that licensure by reciprocity is rare and difficult to achieve; that licensure boards pay little attention to consumer complaints; that boards seldom revoke licenses; and that they are overwhelmingly composed of members of the licensed occupation with a vested interest in protecting those already licensed. The report is presented in four parts: (1) Legislation, the Boards, and Restrictionism; (2) Origins of Licensing Legislation; (3) The "Record" on Complaints; and (4) Summary, Conclusions, and Recommendations for effective reform. (Author/HD)

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AN ECONOMIC ANALYSIS OF OCCUPATIONAL LICENSURE

by

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SUMMARY STATEMENT OF RESEARCH ACTIVITIES

The study tested the hypothesis that occupational licensure is primarily a restrictive device to protect from competition those already licensed. The analysis focused on the licensure of non-professional occupations in Rhode Island, Massachusetts, and Connecticut, covering 36 licenses issued by the three states for twelve occupations and three sub-classes within those occupations.

The study examined (1) the composition of the licensing boards; (2) their policies with respect to prices, advertising and work constraints; (3) constraints specifically incorporated in legislation, and (4) most importantly, the role played by licensing boards in the examination process.

On ten of twelve licensure examinations for which adequate data were available, statistically significant positive correlations were found between failure rates and unemployment rates, supporting the hypothesis, heretofore based on casual empiricism, that the examination process is used to insulate from competition those already licensed.

The study also indicated that licensing processes generated work restrictions, jurisdictional disputes among occupations, restrictions on price competition, that licensure by reciprocity is rare and difficult to achieve, that licensure boards pay little attention to consumer complaints, that boards seldom revoke licenses, and that they are overwhelmingly composed of members of the licensed occupation with a vested interest in protecting those already licensed.

The study concluded that minimum requirements for effective reform would include:

(1) the abolition of occupation-dominated licensing boards;
(2) replacement of those boards by administrative agencies that would standardize and centralize examination and licensing;
(3) national licensure examinations prepared by experts;
(4) elimination of all price and advertising restrictions;
(5) abolition of work restrictions that do not serve the public;
(6) elimination of citizenship requirements;
(7) mandatory licensure by endorsement;
(8) licensees serving the new administration in a purely advisory capacity.

INTRODUCTION

During the past three decades there has been a proliferation of occupational licensing. As a condition of employment, in well over 500 occupations, it is first necessary to obtain a license from a state government. The skills covered by licensure requirements encompass almost the full range of the occupational structure, from phrenologists to psychoanalysts, from elevator operators to airplane pilots -- the professional, the skilled, and the semi-skilled. Today there are probably more than 8 million people working in occupations that are licensed by federal, state or municipal agencies,[1] and the pressure continues for extending licensure to still other areas of employment. The social desirability of this proliferation has been questioned on various grounds in professional journals, by government officials, and in the popular press.[2]

There are serious internal contradictions in the concept of occupational licensure. On the one hand, occupational licensure is commonly justified as a mechanism for protecting the public by maintaining high quality standards in the provision of necessary services. On the other hand, licensure can be used as a device for protecting and advancing the economic interests of the licensed practitioners. With the aid of governmentally sanctioned licensure, a trade or profession may use high "quality" standards to raise the incomes of its members by limiting entrance into the occupation beyond what may be considered socially desirable. Furthermore, licensure may also give a trade or profession the power to exercise various kinds of controls -- at the expense of the general public -- over the production, pricing, and distribution of the services rendered. Thus while occupational licensure may yield certain social benefits, it may also generate considerable social costs. The problem posed for society by licensure is, therefore, whether its social benefits exceed its social costs. More specifically, are existing licensure mechanism socially desirable? If not, should they be modified or other mechanism developed? Alternatively, should they be completely eliminated?

Given the fact that millions of people are employed in occupations that are licensed in one state or another, given the possible abuses of licensure noted above, given the persistent high unemployment rates among the youth and among minority groups in our society and the desirability of lessening barriers to entry and mobility in the labor market, occupational licensure is an important area for economic analysis.

The major hypothesis of this study is that occupational licensure is primarily a restrictive device to protect those licensed from competition. In testing the hypothesis, the study focuses on the licensure of non-professional occupations in Rhode Island, Massachusetts and Connecticut, covering 36 licenses issued by the three states for 12 occupations and 3 sub-classes within those occupations. The occupations included range from the relatively small category of electrologists (an estimated 12,000 in the national labor force) to the sizeable 495,000 hairdresser/cosmetologist group, and comprise approximately one and three-quarter million people nationally. Seven of the occupations are licensed in all 50 states, one in 44 states, one in 39, one in 30, and two in 18 states (see Table 1). The years the various licensing laws were enacted are shown in Table 2.

The first, and major part of the study, Legislation, the Boards and Restrictionism, outlines the legislation for each occupation, and in the process examines (1) the composition of the licensing boards; (2) the restrictive policies pursued by the boards with respect to prices, advertising, and work constraints; (3) the constraints specifically incorporated in the legislation itself on the operation of the market for the services of the occupation, and (4) lastly, and most important of all, the role played by the licensing boards, through their control of the examination process, in restricting the numbers who may be licensed to practice their trade.

The last section of Part I involves a correlation analysis of failure rates on licensure exams with fluctuations in the level of unemployment. The hypothesis tested is that failure rates tend to vary with the level of unemployment.[4] If failure rates move in the manner hypothesized, this would support the study's major hypothesis that the licensure mechanism is primarily a restrictive device to protect those licensed from competition, and would be inconsistent with the assertion that the primary purpose of licensure is for the protection of the consumer.

The analysis of the role of the boards in restricting entry into various occupations was made possible by the collection of detailed data with respect to pass-fail rates on examinations for

TABLE 1

NUMBER OF STATES LICENSING SELECTED OCCUPATIONS AND NUMBER EMPLOYED, BY OCCUPATION

Occupation	No. of States	Number Employed
Plumber	39	400,000
Barber	50	160,000
Hairdresser/cosmetologist	50	495,000
Electrician	30	240,000
Embalmer	50	45,000
Funeral Director	44	
Electrologist	18	12,000[a]
Real Estate Broker	50	350,000
Real Estate Salesman	50	
Dental Hygienist	50	17,000
Physical Therapist	50	18,000
Optician	18	28,000[b]

[a] This is a very rough estimate based on the number of electrologists in Connecticut.

[b] The figure is made up of 12,000 dispensing opticians and 16,000 optical mechanics.

Source: The data on the number of states licensing the various occupations (except for opticians) is from *Occupational Licensing and the Supply of Professional Manpower*, U. S. Department of Labor, Manpower Administration, Monograph No. 11, (Washington, D. C., 1969) pp. 51-56. The number of states licensing opticians is from *Optometric Practice*, American Optometric Association, (St. Louis, 1974), p. 268. The number employed by occupation is from the *Occupational Outlook Handbook*, 1974-75 Edition, U. S. Dept. of Labor, Bureau of Labor Statistics, Bulletin 1785.

TABLE 2

YEAR OF ENACTMENT OF LICENSURE LEGISLATION FOR SELECTED OCCUPATIONS IN RHODE ISLAND, MASSACHUSETTS AND CONNECTICUT

Occupation	R. I.	Mass.	Conn.
Plumber	1945	1909	1965
Barber	1903	1931	1901
Hairdresser/cosmetologist	1926	--	1935
Electrician	1942	1915	1965
Embalmer and Funeral Director	1908	1936	--
Electrologist	1943	1958	1951
Real Estate Salesman & Broker	1959	1957	--
Dental Hygienist	1931		1949
Physical Therapist	1962	1958	--
Optician	1937	1955	1935

Source: Statutes covering the various licenses.

licensure. Others who have studied licensure have been unsuccessful in their attempts to obtain such data. Thus Shimberg, Esser and Kreuger in their comprehensive work, Occupational Licensing: Practices and Policies reported that "---it proved difficult, and often impossible, to obtain hard data regarding pass-fail rates---" although it was not "uncommon for board officials to offer to go through the minutes for the past year or two to tabulate pass-fail rates."[3] Through research at state government libraries in Boston, Hartford, and Providence, and with the (often reluctant) cooperation of licensing board officials who provided access to their reports and board minutes, it was possible to obtain the "hard data" on pass-fail rates others have been unable to acquire.

Part II of the study is a brief discussion of the Origins of of Legislation and aims to assess the roles played by consumers and the members of the occupation or their representatives in the enactment of licensing laws. Part III, The "Record on Complaints, is an attempt to assess the degree of concern with which consumer complaints are treated by the institutions regulating the licensed occupations. Part IV concludes with a summary of the study and some observations concerning reform of the licensure process.

The work on this project could not have been accomplished without the cooperation and assistance of the following individuals who agreed to be interviewed and provide data:

Thomas F. Rotella, Secretary, Board of Barber Examiners, R. I.

Vincent Lentini, Chairman, Board of Barber Examiners, R. I.

Camille A. Paulin, Member, Board of Registration of Barbers, Mass.

Anthony J. Bellio, Secretary, Board of Registration of Barbers, Mass.

William Galasso, Examiner, Board of Examiners of Barbers, Conn.

Carmello F. Guardo, Deputy Examiner, Board of Examiners of Barbers, Conn.

Adolph P. DiSandro, Chairman, Board of Examiners of Electricians, R. I.

John F. Cullen, Executive Secretary, Board of State Examiners of Electricians, Mass.

Harry Abraham, Executive Secretary, Electrical Work Examining Board, Conn.

Francis J. Canning, Co-Chairman, Board of Plumbing Examiners, R. I.

John Winter, Co-Chairman, Board of Plumbing Examiners, R. I.

Irving J. Risi, Esecutive Secretary, State Examiners of Plumbers, Mass.

Roland Bonosconi, Executive Secretary, Plumbing and Piping Work Examining Board, Conn.

Margo Chobanian, Chairman, Board of Hairdressing, R. I.

Angela Rink, Secretary, Board of Hairdressing, R. I.

Mary Cerra, Member, Board of Hairdressing, R. I.

Statia Hotchkiss, Sr. Hairdressing Inspector, Licensure and Registration Division, Conn.

Reginald Whitcomb, Deputy Administrator Real Estate Division, R. I.

Peter Tardo, Chief Examiner, Board of Registration of Real Estate Brokers and Salesmen, Mass.

Ernest H. McVay, Chairman, Board of Examiners in Optometry, R. I.

Donald C. Hillman, Assistant to the Secretary, Executive Office of Consumer Affairs, Mass.

Mary Ellen McCabe, Administrator, Division of Professional Regualtion, R. I.

FOOTNOTES

1. *Occupational Licensing and the Supply of Nonprofessional Manpower*, Monograph No. 11, (U. S. Department of Labor, Manpower Administration, Washington, D. C., 1969), p. 1.

2. See for example Arlene S. Holen, "Effects of Professional Licensing Arrangements on Interstate Labor Mobility and Resource Allocation," *Journal of Political Economy*, October 1965; Milton Friedman, *Capitalism and Freedom*, (The University of Chicago Press, Chicago, 1962), chapter IX. Joe Sims, "State Regulation and the Federal Anti-Trust Laws," an address before the National Association of Attorneys General, (Department of Justice, December 12, 1974, mimeo).

3. Benjamin Shimberg, Barbara F. Esser, Daniel H. Kruger, *Occupational Licensing: Practices and Policies*, (Public Affairs Press, Washington, D. C., 1973), pp. 78 and 99.

4. U. S. Bureau of Labor Statistics national unemployment rate data were used as the independent variable in the correlation analysis. State unemployment rate data were not adequate for several reasons: (1) for many of the years covered by the study, state unemployment rate data were simply not available; (2) changes in the methods of estimating state unemployment rates were so significant that it was not possible to construct consistent time series; and, (3) state data were based on "insured unemployment" and "labor force estimates" (not the BLS survey approach) and hence were subject to considerable error.

PART I

LEGISLATION, THE BOARDS AND RESTRICTIONISM

PLUMBERS

The Licensing Boards

The licensing boards in each of the three states have five members though their composition varies. In Rhode Island, the legislation provides that two members of the Board of Examiners shall be master plumbers with at least five years experience and two shall be journeymen plumbers with at least ten years experience. The fifth member (ex officio) is the state director of health. The plumber members of the board receive $45 per meeting with a maximum of $1500 per year and are appointed by the governor for a three-year term.

During an interview with two Rhode Island board members, they indicated that the governor follows the recommendations of the Master's association and the Journeymen's union in making his appointments to the board. Furthermore, despite the fact that the legislation makes the director of health the chairman of the board, the board members stated flatly that he "plays no role." The board members appoint their own deputy chairman. In effect, then, there is no public representation on the board.

In Massachusetts, the Board of State Examiners of Plumbers includes a sanitary engineer, the commissioner of public health or his designee, a representative of the public, a master plumber with three years experience, and a journeyman plumber who is a wage earner with ten years experience. They are appointed by the governor for a term of three years and the governor designates the chairman of the board. The chairman is paid an annual salary of $750 and each of the other members receive $500. The board appoints an Executive Secretary who has ten years experience as a plumber, takes a qualifying exam for civil service status, and has unlimited tenure.

When queried as to the role of the Masters' association and the Journeymen's union in making appointments to the Massachusetts board, the Executive Secretary, who has been with the board sixteen years (12 as Executive Secretary) replied, "I've heard a lot of rumors. I don't want to comment on them." With respect to the role of the public representative, he felt that it is very useful in "representing the consumer point of view."

The Connecticut Plumbing and Piping Work Examining Board consists of two "unlimited contractors" (master plumbers), two unlimited journeymen, and a public representative who is not a plumber -- all appointed by the governor for a six-year term. Unlike Rhode Island and Massachusetts, the legislation specifically requires that the board members who are plumbers shall be "appointed by the Governor from a list of names submitted by employees' and employers' associations in the respective occupations." The board also has an "Administrator," a full-time employee of the board whose duty it is to act as liason between the board and the general public and to administer examinations.

When the Connecticut Administrator was queried on the role of the public representative, contrary to the view of the Massachusetts Executive Secretary, he tended to disparage it, arguing that "they do not know the technical aspects of the trade -- they simply go along with whatever the other board members decide." He also asserted that they journeyman's union and association of masters do not determine board policy as "we are state employees."

The Rhode Island board is part of the Division of Professional Regulation within the Department of Health, the Massachusetts board is in the Division of Registration within the Executive Office of Consumer Affairs, and the Connecticut board is part of the State Boards of Occupational Examiners. However, the organizational structures in the three states are primarily for administrative and, to a minor extent, for budgetary purposes. In essence, the plumbing boards in all three states are autonomous bodies and are not accountable to any other agency of government. While the basic requirements for licensure and the constraints under which the licensees work are spelled out in the state law, the implementation of the legislation is solely in the hands of the autonomous licensing boards.

Licensing Requirements

Journeyman: Prior to taking an examination to qualify as a journeyman plumber, an applicant in Rhode Island must pay an examination fee of $10, must be a citizen of the United States, and must have worked as a registered apprentice plumber for at least four years. As an alternative to the four year apprenticeship requirement, the applicant can substitute three years of study in an approved school where he has pursued a course of plumbing or sanitary engineering plus employment thereafter as a registered apprentice plumber for at least two years.

In Massachusetts, the applicant for a journeyman's exam must pay a $10 fee, must have worked as a registered apprentice plumber for at least three years, and must have completed 100 hours of study in a plumbing theory course in a school accredited by the State Department of Education. For the purpose of computing the three year work requirement, six month's credit is granted for each completed year of training in an accredited school. Any applicant having qualifications other than those specified may be admitted for examination as a journeyman by a majority vote of the board.

To qualify for a journeyman's examination in Connecticut, the applicant must pay a $15 fee, must have completed a bona fide apprenticeship program and have not less than five years experience in the trade. Furthermore, he must have had at least an eighth-grade education and be at least twenty years of age. Credit toward the five-year work requirement may be given in an amount not exceeding one-half of the total time spent in an all-day vocational school, but not exceeding two years.

Thus there is considerable variation among the three states with respect to the work requirement prior to applying for a journeyman's license -- three years in Massachusetts, four in Rhode Island and five in Connecticut. Until 1974, when the law was changed, Rhode Island had required a five-year apprenticeship. The Administrator of the Connecticut board admitted that his state's five year requirement was excessive in that "due to changes in technology and the materials used, such a lengthy training period is no longer necessary." The Massachusetts Executive Secretary held that "three years' practical experience was enough."

Of the three states, only Massachusetts requires any formal training -- 100 hours of study in plumbing theory.

Masters: Rhode Island charges a $40 fee for the Masters' examination, Massachusetts $20, and Connecticut $25. The applicants in Rhode Island and Massachusetts must have been licensed journeymen for at least one year whereas Connecticut requires at least two years. Therefore while a Massachusetts' Master's license may be obtained in four years from the date of first employment as an apprentice, a minimum of seven years is required in Connecticut.

In both Rhode Island and Connecticut the Master must furnish a surety bond to protect the consumer of his service from financial loss; Massachusetts has no such requirement. The Executive Secretary in Massachusetts believes "a surety bond requirement would be a benefit to the consumer as the board receives many consumer complaints." However, he said there is "opposition by the Masters" to requiring a surety bond.

License Fees

There is no initial fee for a license in Rhode Island, but there is an annual renewal fee of $25 for Masters and $5 for Journeymen. Massachusetts charges a fee of $25 for the first Masters' license and $24 for biennial renewal; for Journeymen, the initial fee is $10 and for biennial renewal $12. Connecticut fees are $50 for Masters and $25 for Journeymen for the initial licenses and the same amounts for biennial renewal.

Reciprocity

In Rhode Island, an individual who has a journeyman or master's license from another state may take the exam for his respective license without meeting the Rhode Island work requirement. This is the full extent of the state's "reciprocity" provision. Neither Massachusetts or Connecticut has any provision for reciprocity.

Both Rhode Island board members saw "no reason for reciprocity" and stated that it had "never been considered" by the board. The Executive Secretary of the Massachusetts asserted that reciprocity was "never an issue" and had "never been discussed by the board." The Connecticut board's administrator contradicted his counterpart in Massachusetts, stating that the two boards had a meeting several years ago but "could not reach an agreement on reciprocity." He also stated that he would favor it "if standards were uniform."

Work Restrictions

In both Rhode Island and Connecticut, a journeyman is an "employee" and cannot contract on his own to work for a consumer; in both states, only masters are permitted to acquire a permit for the performance of any plumbing work. In Massachusetts, however, a journeyman can work on his own but cannot employ others or have a place of business (that is, he must work out of his own home). When asked why journeymen plumbers in Rhode Island are not permitted to do business on their own, the Chairman of the board replied, "It would hurt the Master plumber -- it would take away work from him." (The Chairman is a Master plumber!) The Massachusetts' Executive Secretary, when told that some localities do not license journeymen and asked if it is necessary to license them, responded, "The time has come when only one license is necessary. People have more education now. But the Masters are strongly opposed. They are fearful and they have great power."

In reply to the same question, the Rhode Island board chairman asserted, "Yes, it is necessary to license journeymen. Very much so. The journeyman does all the work." His admission that "the journeyman does all the work" clearly indicates that preventing them from contracting on their own is no more than a restrictive device to protect master plumbers.

In all three states, an apprentice can be employed only by a master plumber and must work under the supervision of either a master or journeyman plumber. Rhode Island and

Massachusetts limit the number of apprentices employed to one per master plus one for each journeyman. Connecticut is more restrictive, allowing one apprentice per master plus one additional apprentice for each two journeymen employed.

Revocation or Suspension of a License

The grounds for revocation of suspension of a plumbing license in Rhode Island are: (1) conspiring to obtain a license; (2) willful violation of plumbing ordinances; (3) knowingly aiding an unlicensed person in performing work; (4) fraudulently lending a license; (5) willful violation of any provisions of the licensing law. The grounds are similar in Connecticut with the additional proviso that the license may be revoked or suspended if the licensee has been guilty of neglect or incompetence. Massachusetts has the broadest grounds of all -- "for violation of any statute, ordinance, by-law, rule or regulation relative to plumbing or for other sufficient cause (underlining added)."

Examinations

Both Rhode Island and Connecticut give written exams four times a year and no practical test. The Massachusetts exam is given fifteen times a year in five different cities and consists of written, oral and practical tests.

The Rhode Island exam is made up from a book of questions and answers published by R. M. Starbuck and Sons. The questions are selected by the members of the board. In Massachusetts and Connecticut, the administrative officers make up the exams in consultation with board members.

The Massachusetts Executive Secretary felt that the practical test was necessary, although he admitted that "over 90 per cent of the failures are on the written part of the exam." The Administrator of the Connecticut board emphasized that a practical test made little sense since the examinees already had years of practical experience. Evidently the Rhode Island board agreed as they gave up the practical "about ten years ago -- we used to make them wipe a lead joint."

Analysis of the Rhode Island exams for journeymen and masters indicate that there is little difference between the two. Both include twenty brief essay questions taken from the Starbuck book referred to above. The only difference seems to be that the masters' exam requires that five sketches be drawn in addition to answering the twenty questions whereas the journeymen's exam calls for four sketches (see Appendix A for copies of the exams).

It is important to note that about eighty per cent of each examination in all three states is based on the plumbing code and the examinees are aware of this fact before taking the exam.

Analysis of Failure Rates on Licensure Exams

Data on the numbers examined and the numbers passed and failed on both Master and Journeyman examinations were obtained for the following years:

Rhode Island	-	1946 through 1974-75
Massachusetts	-	1959-60 through 1973-74
Connecticut	-	1970 through 1974 for one of four exams exams given in each year.

The failure rates varied considerably, both between states and within states over time. In Massachusetts, the failure rate of 70.8 per cent for Masters' exams is 72 per cent greater than the 41.2 per cent failure rate in Rhode Island for the 1959-1974 period. While the data from Connecticut are too sketchy to be used for detailed analysis, they do suggest failure rates comparable with those in Rhode Island (see Table 3). The failure rates for Master's exams in Massachusetts ranged from a low of 56.4 to a high of 89.6 per cent during the fifteen-year period and for Journeymen from 43.0 to 81.6 per cent. The corresponding figures in Rhode Island for the same years were 12.5 to 81.3 and 15.4 to 60.9. Given the fact that the exams in all three states are la4gely based on the plumbing codes and that the examinees are aware of that fact, the considerable variation in failure rates suggests that factors are operative other than the quality of the examinees or

TABLE 3

FAILURE RATES ON PLUMBING LICENSURE EXAMINATIONS

		Masters			Journeymen		
State	**Years**	**Examined**	**Failed**	**% Failed**	**Examined**	**Failed**	**% Failed**
R. I.	1946 to 1974-75	1,338	511	38.2	1.763	707	40.1
R. I.	1959 to 1973-74	653	269	41.2	857	379	44.2
Mass.	1959-60 to 1973-74	5,039	3,567	70.8	9,920	6.324	63.8
Conn.	1970-1974	78	35	44.9	164	64	39.0

Source: See Tables 4, 5 and 6.

TABLE 4

PLUMBERS (RHODE ISLAND)

	Masters			Journeymen			Masters and Journeymen Combined		
Year	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)
1974-75	60	30	50.0	70	31	44.3	130	61	44.3
1973-74	61	21	34.4	71	34	47.9	132	55	41.7
1972-73	92	40	43.5	115	70	60.9	207	110	53.1
1971-72	43	13	30.2	75	31	41.3	118	44	37.3
1970-71	48	14	29.2	64	23	35.9	112	37	33.0
1969-70	35	7	20.0	57	18	31.6	92	25	27.2
1968-69	26	6	23.1	62	18	29.0	88	24	27.3
1967-68	40	8	20.0	46	17	37.0	86	25	29.1
1966-67	24	5	20.8	42	14	33.3	66	19	28.8
1965-56	32	4	12.5	39	6	15.4	71	10	14.1
1964-65	39	11	28.2	42	13	31.0	87	24	29.6
1963-64	35	20	57.1	45	27	60.0	80	47	58.8
1962	38	29	76.3	33	17	51.5	71	46	64.8
1961	35	19	54.3	43	24	55.8	78	43	55.1
1960	48	39	81.3	79	42	53.2	127	81	63.8
1959	57	33	57.9	44	25	56.8	101	58	57.4
1958	48	24	50.0	67	21	31.3	115	45	39.1
1957	43	22	51.2	79	32	40.5	122	54	44.3
1956	46	25	54.3	55	30	54.5	101	55	54.5
1955	42	20	47.6	43	23	53.5	85	43	50.6
1954	39	20	51.3	75	46	61.3	114	66	57.9
1953	55	29	52.7	84	55	65.5	139	84	60.4
1952	44	15	34.1	65	32	49.2	109	47	43.1
1951	37	9	24.3	71	13	18.3	108	22	20.4
1950	32	15	46.9	48	14	29.2	80	29	36.3
1949	61	3	4.9	48	15	31.3	109	18	16.5
1948	33	4	12.1	38	3	7.9	71	7	9.9
1947	58	20	34.5	58	10	17.2	116	30	25.9
1946	87	6	6.1	105	3	2.9	192	9	4.7

Source: *Annual Reports* of R. I. Division of Professional Regulation.

TABLE 5

PLUMBERS (MASSACHUSETTS)

	Masters			Journeymen			Masters and Journeymen Combined		
Year	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)
1973-74	379	236	62.3	883	453	51.3	1262	689	54.6
1972-73	319	226	70.8	781	454	58.1	1100	680	61.8
1971-72	307	173	56.4	644	316	49.1	951	489	51.4
1970-71	335	225	67.2	514	221	43.0	849	446	52.5
1969-70	342	199	58.2	565	281	49.7	907	480	52.9
1968-69	348	197	56.6	539	273	50.6	887	470	53.0
1967-68	320	191	59.7	709	391	55.1	1029	582	56.6
1966-67	409	257	62.8	884	564	63.8	1293	821	63.5
1965-66	481	377	78.4	754	573	76.0	1235	950	76.9
1964-65	414	371	89.6	876	683	78.0	1290	1054	81.7
1963-64	334	293	87.7	738	541	73.3	1072	834	77.8
1962-63	212	168	79.2	493	375	76.1	705	537	76.2
1961-62	163	130	79.8	357	283	79.3	520	413	79.4
1960-61	329	263	79.9	565	461	81.6	894	724	81.0
1959-60	347	261	75.2	618	455	73.6	965	716	74.2

Source: Data provided by Executive Secretary of Massachusetts Board of State Examiners of Plumbers.

TABLE 6

PLUMBERS (CONNECTICUT)

Year*	Masters			Journeymen			Masters and Journeymen Combined		
	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)
1970	9	3	33.3	29	9	31.0	38	12	31.6
1971	10	4	40.0	35	17	48.6	45	21	46.7
1972	22	11	50.0	38	10	26.3	60	21	35.0
1973	21	8	38.1	40	22	55.0	61	30	49.2
1974	16	9	56.3	22	6	27.3	38	15	39.5

*The data are for one of four exams given in each year, in May of 1970 and in March of the other four years.

Source: Data supplied by Administrator of Connecticut Plumbing and Piping Work Examining Board.

the difficulty of the exams.

Correlation Analysis: Correlation analysis of failure rates on licensure exams and fluctuations in the level of unemployment in the construction trades supports the hypothesis that failure rates are influenced by the level of unemployment.

Regressions were run using the failure rate data on Masters' and Journeymen's exams in Rhode Island and Massachusetts, with unemployment rates in construction as the independent variable. The Connecticut data (one exam in each of five years) were inadequate for testing the hypothesis (see Tables 4, 5 and 6 for examination data). Following are the statistical results for the Rhode Island and Massachusetts data:

1. Failure rates on Master plumber exams (R. I.) vs Construction Unemployment Rates for 29 years (1946 through 1974-75):

   $R^2 = 0.4344$
   t-statistic = 4.55410

   The t-statistic indicates significance at the 1 per cent level.

2. Failure rates on Journeyman plumber exams (R. I.) vs Construction Unemployment rates for 29 years (1946 through 1974-75):

   $R^2 = 0.1380$
   t-statistic = 2.07907

   The t-statistic indicates significance at the 5 per cent level.

3. Failure rates on Master and Journeyman plumber exams combined vs Construction Unemployment Rates for 29 years (1946 through 1974-75):

$R^2 = 0.2861$
t-statistic = 3.28913

The t-statistic indicates significance at the 1 per cent level.

4. Failure rates on Master plumber exams (Mass.) vs Construction Unemployment Rates for 15 years (1959-60 through 1973-74):

$R^2 = 0.5987$
t-statistic = 4.40345

The t-statistic indicates significance at the 1 per cent level.

5. Failure rates on Journeyman plumber exams (Mass.) vs Construction Unemployment Rates for 15 years (1959-60 through 1973-74):

$R^2 = 0.5779$
t-statistic = 4.21858

The t-statistic indicates significance at the 1 per cent level.

6. Failure rates on Master and Journeyman plumber exams combined (Mass.) vs Construction Unemployment Rates for 15 years (1959-60 through 1973-74):

$R^2 = 0.6197$
t-statistic = 4.60179
F-statistic = 21.1810

The t-statistic indicates significance at the 1 per cent level.

All of the above six regressions show significant correlations between failure rates and unemployment as hypothesized, five at the 1 per cent level and one at the 5 per cent level, and hence are supportive of the hypothesis that failure rates are influenced by the level of unemployment.

Two other regressions were run -- failure rates on Master plumber exams vs failure rates on Journeyman plumber exams for Rhode Island and for Massachusetts. They yielded the following results:

For Rhode Island:

$R^2 = 0.5454$
t-statistic = 5.69166

For Massachusetts:

$R^2 = 0.7329$
t-statistic = 5.97151

The t-statistics for both of the above regressions indicate significance at the 1 per cent level. These two regressions are also supportive of the hypothesis that failure rates are influenced by the level of unemployment. That is, there is no reason for fluctuations in failure rates on different exams taken by different people to be highly correlated unless a factor common to both sets of failure rates is operative -- and in this case the common factor is the level of unemployment.

BARBERS

The Licensing Boards

Rhode Island's three-man Board of Barber Examiners is appointed by the director of health with the approval of the governor. Each member serves a three year term, is limited to two terms on the board, and is compensated at a rate of $10 a day when the board meets. By law, one of the members is appointed from a list of five names submitted to the director of health and the governor by the Rhode Island state association of journeymen barbers and proprietors. In an interview with two of the board members, when asked how the other two are appointed, they responded, "Political pressure on the governor." It is significant that although not required by law, all three members of the board are union barbers.

The Board of Registration of Barbers in Massachusetts has three members, each of whom must be a "practicing barber" with five years of practical experience as a barber. At least one member must be a journeyman barber employed by a master barber and one a master barber who is an employer. All the board members are appointed by the governor for a three-year term. Board membership is a full-time position with the chairman receiving a salary of $6,400 and the other two members $5,700. The board also appoints a secretary who receives a salary of $5,700.

Connecticut's Board of Examiners of Barbers consists of a "barber examiner" and two "deputy barber examiners." The law requires that the governor appoint them from a list of forty names, twenty submitted by The Connecticut State Journeyman Barbers and twenty by the Connecticut Master Barbers' Protective Association. They must all have been barbers for at least five years prior to the appointment. The term of office is six years. Two board members, when interviewed, said that membership on the board was a "political appointment," and that although the governor usually follows the recommendation of the barbers' organizations, "Governor Ribicoff once appointed his personal barber."

The Rhode Island law states that "The profession of barbering and the operation of barber shops is hereby declared to be of public interest;" the Connecticut law gives its board the power "to make all needful regulations -- consistent with the preservation of public health;" the Massachusetts law aims at protecting "the health and safety of persons" whom the barber may serve. Yet on none of the three boards is there any public representation -- all are completely dominated by members of the profession! Furthermore, the members of both the Rhode Island and Connecticut boards are actually nominated by the barbers' unions or associations in their respective states.

Licensing Requirements

Prior to taking the exam to qualify for licensure, an applicant in Rhode Island must pay a $15 examination fee, be at least eighteen years of age and of "good moral character," have a tenth-grade education, and have studied the trade in a barber shop or barber school for at least two years. In addition, a physician must certify that the applicant is free from contagious or infectious diseases and the certification must include the results of a tubercular and Wasserman test.

In Massachusetts, the examination fee is $25. The apprenticeship requirement is two years under one or more registered barbers, or six months training in a barber school under a registered barber plus eighteen months as an apprentice under a registered barber. Every applicant must furnish evidence that he is a citizen of the United States or present to the board a copy of his declaration of intention to become a citizen. A certificate from a physician that the applicant is free from infectious or contagious diseases is also required.

Connecticut's examination fee is $30. The applicant must be at least eighteen years of age, of "good moral character," possess an eighth-grade education, be free of any communicable disease, and must have completed his apprenticeship.

Apprenticeship requirements

Apprenticeship requirements vary significantly. They are substantially greater in Connecticut than in Rhode Island or Massachusetts. In Rhode Island, the apprentice must file with the division of registration and give the name and place of his employer or the school he will enter. He must be at least sixteen years of age and, on payment of a $5 fee, is issued an apprentice certificate. No examination is required. After two years as an apprentice he is eligible to take the exam for licensure as a barber.

Massachusetts requires an examination for an apprentice and the fee is $25. The applicant must be at least sixteen years of age and have completed a course of at least six months (at least 1,000 hours) of training in a barber school. Upon passing an examination satisfactory to the board, he is registered as an apprentice. After two years of practice, six months in a school plus eighteen months under a registered barber, he is eligible to apply for examination by the board as a barber.

Connecticut requires at least 1,500 hours of study, both of theory and practice, in an approved barber school before an application can be made for an apprenticeship. He may then take the apprentice examination if he is at least sixteen years of age, is of good moral character, has an eighth-grade education, and is free from any communicable disease. If he passes the exam, he is given an apprentice certificate which entitles him to continue to study barbering under the supervision of a licensed barber. The certificate may be renewed for six successive yearly periods. At the end of a period of not less than one year as an apprentice, plus an additional 144 hours of specialized training at a borad-approved school, he may apply for registration as a licensed barber. The specialized training is in hair styling.

Registration of Barber Shops

A barber must have held a license to practice barbering for at least two years before he can apply for a barber shop license in Rhode Island.

In Massachusetts, before any registered barber opens a barber shop or moves his shop to a new location, or operates a barber shop previously approved for a prior owner, he must apply to the board for an inspection and approval of the shop. No prior work period, as required in Rhode Island, is necessary.

Connecticut requires that the prospective shop-owner be a citizen of the United States or have made application for citizenship and that he be a registered barber. The board must be satisfied, before granting the certificate of registration giving the individual the right to open a shop, that the shop is, "with respect to its location, appointments, equipment and appliances, suitable and sanitary."

License Fees

An annual renewal fee of $5 for a barber's license is required in Rhode Island, a biennial renewal fee of $15 in Massachusetts, and an annual renewal fee of $12.50 in Connecticut.

Rhode Island requires a $20 initial fee for a license to operate a barber shop and a $5 fee for annual renewal. In Massachusetts there is an initial inspection fee of $25 for barber shop owners and a $5 renewal fee. Connecticut requires a $50 initial registration fee for shops and a $12.50 annual renewal fee.

Reciprocity

None of the three states have a reciprocity provision.

Advertising Restrictions and Price Fixing

Rhode Island and Massachusetts have legislative prohibitions against advertising the prices of barbers' services. In Rhode Island, barbers are not permitted to include in any advertisement "prices, fees or charges for performing or rendering any work or service." The Massachusetts law states that "Price lists for barbering services shall not be displayed in any part of the premises of a barber shop where they may be read from outside the shop or the distribution of pamphlets or flyers with price lists." While Connecticut law contains no specific prohibition against the advertising of prices, two board members interviewed stated that "we tell them it is unprofessional."

When the Rhode Island board members were asked why there was a restriction on the advertisement of prices, they responded, "To keep it professional. Barbers are not selling a product. Are selling services. Could lead to unfair competition. Creates price wars, like in the gasoline industry."

Until 1959, the director of health in Rhode Island under the Rhode Island barber licensing law, was involved in the establishment and enforcement of minimum prices for barbers' services whenever a scale of minimum prices was agreed upon by 70 per cent of the registered barbers in any city or town. On August 28, 1959 the Attorney General of Rhode Island, on a request from the Governor, rendered an "advisory opinion" with respect to the constitutionality of the price-fixing section of the barbers' law. The Attorney General noted that the section gives the initiative to the barbers' organization in setting minimum prices. He held that this "constitutes an improper delegation of legislative authority. It is a surrender of lawmaking authority to a special group whose economic interests are opposed to the interests of the general public." He also commented that "We are unable to perceive how permitting barbers themselves to set minimum prices promotes the public health or public morals," and concluded that "Section 5-27-19 of the General Laws are unconstitutional."[1] The following is the relevant section of the law:

> ESTABLISHMENT OF MINIMUM PRICES AND STANDARD HOURS - The facts, policies and purposes herein set out are hereby declared as a matter of legislative determination and the provisions and regulations hereof are declared to be enacted in the interest of the public health, public safety and general welfare. The profession of barbering and the operation of barber shops is hereby declared to be affected with a public interest; that the fixing of minimum prices for services and regulation of hours of operation will stabilize the barber business, safeguard fair competition and will facilitate adequate sanitary inspection and supervision of barber shops, and will thereby tend to protect the health and safety of the public and protect barbers from long, unreasonable and unhealthful hours of service and from inadequate means for complying with health and sanitary regulations. It is further declared that unfair, demoralizing and uneconomic competition and practices now exist in this state among barbers and barber shops, resulting in price cutting to the extent of limiting and preventing barbers from rendering safe and healthful service to the public by reducing the purchasing power of barbers in obtaining sanitary products and appliances, required for health protection and safety in preventing transmission of disease.
>
> Therefore, whenever a scale of minimum prices for barber services shall have been agreed upon, signed and submitted to the director of health by organized and representative groups of barbers of at least seventy per cent (70%) of the registered barbers in any city or town in this state, said director of health shall have power to approve such agreements and to declare and establish, within such city or town, by official order, the minimum prices for any and all work or service usually performed in barber shops; provided, however, before approving such agreements the director, within thirty (3) days after such schedule is submitted, shall instruct the barber inspectors, to determine by investigation, whether such suggested prices are reasonable, and sufficient to enable barber shops in such city or town to operate in keeping with the purposes of this section in minimizing danger to the public health and safety incident to such work. In determining reasonable minimum prices the director shall take into consideration the necessary costs incurred in the particular city or town in maintaining barber shops in a clean, healthful and sanitary condition, and also the wages or commission, or both, which are customarily paid to employees in barber shops in such city or town, and shall take into consideration any and all other facts

> and conditions affecting the barber profession in its relation to the public health and safety. If the director shall find after investigation that the minimum prices fixed in any such city or town are insufficient to provide adequate service for protecting the public health and safety, such prices may be changed and varied from time to time.
>
> The director of health shall have power to approve and, by official order, to establish the days and hours when barber shops may remain open for business, whenever agreements fixing such opening and closing hours have been signed and submitted to the director by any organized and representative groups of barbers of at least seventy per cent (70%) of the barbers of any city or town, and the director shall have the power to instruct the inspectors to investigate the reasonableness and propriety of the hours fixed by such agreement, same as is conferred under this section concerning price agreements.

Since that "advisory opinion," the state director of health has ceased enforcing the price-fixing section of the law although the section's constitutionality has not as yet been tested in the courts.

Apprenticeship Restrictions

The Rhode Island and Massachusetts laws limit barber barber shops to employing one apprentice at a time. Since a barber shop may employ several licensed barbers, this provision is even more restrictive than that in the plumbing or electrician trades which usually permit one apprentice per licensed individual.

The Massachusetts law is particularly onerous with respect to aliens. Aliens must serve an apprenticeship of five years (U. S. citizens only two). Furthermore an alien will not be allowed to take the apprentice exam unless his passport states that he is a barber and he presents two affidavits satisfactory to the board stating that he is at least eighteen years of age and that he has been a barber for at least two years in a foreign country.

Jurisdictional Disputes

There is a rather fierce jurisdictional dispute being waged in both Rhode Island and Connecticut with barbers opposing the right of hairdressers to work on men's hair and hairdressers opposing the right of barbers to work on women's hair. Interviews with board members in both professions indicate that the dispute became acute when men began to let their hair grow long and have their hair styled. As a result, the demand for barbering services fell substantially, forcing a significant decline in the number of barbers and barber shops in both states.

In Rhode Island the hairdressers' law restricts hairdressers to working on females. By law, barbers can cut the hair of both men and women, but cannot style women's hair. The hairdressers in the state want to remove the word "female" from their law so that they can work on men's hair. According to the members of the barbers' board, the board and the barbers' union invited the hairdressers' board to discuss the problem, but "they didn't show up." The board members were confident that the hairdressers will not be successful in changing the law. They asserted, "We fight laws and win because we have labor (AFL-CIO) support. They are not organized."

The hairdressers' law in Connecticut, as in Rhode Island, restricted hairdressers to working on women's hair.

The Connecticut court in 1974 ruled that portion of the law unconstitutional as it discriminated against men. As a result, hairdressers in Connecticut can now do anything to men's hair that they can by law do to women's hair. This includes hair styling but excludes a "conventional cut" on men's hair. According to the barbers' board members, "the hairdressers are doing it (giving conventional cuts) anyway and it is difficult for us to control." The barbers' association and the barbers' board, the board members stated, are pressing for legislation that would define what can be done by the two professions and would require hairdressers receive 288 hours training in barbering and barbers 288 hours training in hairdressing. However, they believe the bill may not pass due to hairdress opposition "because there are only a few thousand barbers and 20,000 hairdressers." In a later interview with the Senior Inspector of the Connecticut Hairdressers' Division, she stated that the Division and the hairdressers' association opposed the bill and were successful in killing it in a legislative committee. She held that the bill was too loosely drawn, that "it would make it possible for barbers to work in beauty salons." Furthermore, she stated, "The bill did not clearly distinguish between hair styling and cutting. We don't mind barbers cutting, but we object to their doing hair styling."

Clearly, protection of the consumer ostensibly the goal of occupational licensing, is not the issue in the above dispute.

Grounds for Revocation of a License

Licenses in Rhode Island may be revoked for (1) conviction of a felony; (2) gross malpractice or gross incompetency; (3) continued practice by a person knowingly having an infectious or contagious disease; (4) habitual drunkenness or drug addiction; (5) immoral or unprofessional conduct; (6) keeping tools or shop in unsanitary conditions; and (7) advertising of prices.

The grounds for revocation in Massachusetts and Connecticut are similar to those in Rhode Island except that Connecticut does not bar advertising of price.

National Licensing Data: Reciprocity and Mobility

While all fifty states license barbers, the licensure requirements vary significantly from state to state. The variation in requirements make it extremely difficult, if not impossible, to achieve reciprocity.

Twenty-two states require 1500 to 1550 hours of training in a barber school, thirteen require 1200 to 1350 hours, seven, 1800 to 2000 hours, six, 1000 hours, and two do not require any. With respect to formal education, twenty mandate at least an eighth-grade education, thirteen require completion of the tenth grade, seven ask for high school diplomas, six have no formal education requirement, and the remaining four have requirements varying from fifth to ninth grade (see Table 7).

Fees for apprentice exams also vary from state to state. While six charge no examination fee, seven charge

TABLE 7

NATIONAL ASSOCIATION OF BARBER SCHOOLS INC.

RESEARCH REPORT NO. 3A - STATE BARBER LAWS

REVISED JULY 1, 1974

	STUDENT			APPRENTICE				BARBER				OUT-OF-STATE STUDENT APPRENTICE OR BARBER			
STATE	BARBER SCHOOL HOURS REQUIRED	MINIMUM EDUCATIONAL REQUIREMENT - GRADE	IS STATE EXAMINATION REQUIRED AFTER GRADUATION	FEE FOR APPRENTICE EXAMINATION	FEE FOR APPRENTICE LICENSE	LENGTH OF APPRENTICESHIP REQUIRED (MONTHS)	IS EXAMINATION REQUIRED AFTER COMPLETION OF APPRENTICESHIP	EXAMINATION FEE FOR BARBERS	RENEWAL FEE FOR BARBER	RESTORATION PERIOD TO RESTORE EXPIRED LICENSE	RESTORATION FEE	REQUIRED PERIOD OF RESIDENCE WITHIN STATE	IS A STUDENT FROM AN OUT OF STATE SCHOOL ELIGIBLE FOR APPRENTICE EXAMINATION?	IS CREDIT GIVEN FOR OUT OF STATE APPRENTICE EXPERIENCE?	IS TEMPORARY PERMIT ISSUED UNTIL EXAMINED?
ABAMA	1500		Yes	10.00	10.00	18	Yes	10.00	10.00	3 yr.			Yes	Yes	Yes
ASKA				NO APPRENTICE LAW				25.00	10.00	5 yr.	60.00	None	No	No	Yes
ZONA	1250	10	Yes	20.00	10.00	18	Yes	50.00	12.00	6 mo.	20.00	None	No	Yes	No
KANSAS	1500	8	Yes	12.00	8.00	18	Yes	21.00	8.00	3 mo.	12.00	None	Yes	Yes	No
LIFORNIA	1500	9	Yes	20.00	20.00	15	Yes	20.00	20.00 bien.	5 yr.	40.00	None	No	Yes	No
LORADO	1200	8	Yes	10.00	5.00	24	Yes	25.00	10.00	3 yr.	35.00	None	No	No	No
NNECTICUT	1500	8	Yes	10.00	5.00	12	Yes	30.00	12.50	1 yr.	50.00	None	Yes	Yes	No
LAWARE	1500	8	Yes	None	5.00	12	Yes	50.00	10.00	3 mo.	Re-exam	None	Yes	Yes	Yes
ORIDA	1500	10	Yes	10.00	6.00	18	Yes	33.00	8.00	5 yr.	13.00	None	No	Yes	No
ORGIA	1500	5	No	No exam	5.00	12	Yes	30.00	5.00		Lapsed fees	6 mo.		Yes	Yes
WAII	None	8		10.00	4.00	18	Yes	15.00	5.00	3 yr.	5.00	None	Yes	Yes	Yes
AHO	1248	10	Yes	25.00	12.00	18	Yes	25.00	12.00	5 yr.	25.00 plus lapsed fees	None	Yes	Yes	Yes
LINOIS	1872	10	Yes	10.00	3.00	27	Yes	20.00	5.00	5 yr.	10.00 plus lapsed fees	None	No	No	No
DIANA	1500	8	Yes	5.00	10.00 bien.	12	Yes	25.00	5.00	6 mo.	30.00	None	No	Yes	No
VA	1800	10	Yes	15.00	5.00	18	Yes	25.00	5.00	Anytime	Lapsed fees	None	No	No	No
NSAS	1500	12	Yes	30.00	20.00	16	Yes	30.00	20.00	3 yr.	20.00	None	No	No	Yes
NTUCKY	1500	12	Yes	20.00	20.00	18	Yes	20.00	12.00	5 yr.	50.00	None	No	Yes	No
UISIANA	2000	12	Yes	15.00	15.00	18	Yes	25.00	25.00	5 yr.	25.00 plus lapsed fees	None	No	Yes	No
INE	1500	10	Yes	20.00	5.00	18	Yes	20.00	20.00	1 yr.	20.00	6 mo.	No	No	Yes
RYLAND	1200	8	Yes	None	10.00	18	Yes	20.00	10.00	5 yr.	Lapsed fees	None	Yes	Yes	No
SSACHUSETTS	1000	None	Yes	5.00	5.00	18	No	25.00	15.00 bien.	1 yr.	20.00	None	Yes	No	No
CHIGAN	2000	10	Yes	20.00	5.00	24	Yes	25.00	10.00	1 yr.	25.00	6 mo.	No	Yes	Yes
INESOTA	1500	10	Yes	17.00		15	Yes	30.00	10.00	1 yr.	15.00	None	No	No	No
SISSIPPI	1500	8	Yes	10.00	15.00	12	Yes	10.00	15.00	5 yr.	36.00	None	Yes	Yes	Yes
SOURI	1000	8	No.	None	5.00	18	Yes	25.00	10.00	3 yr.	10.00	None	No	No	No
NTANA	1500	None	Yes	28.00	10.00	12	Yes	33.00	10.00	1 yr.	10.00	None	Yes	Yes	No
BRASKA	1850	12	Yes	25.00	5.00	12	Yes	25.00	10.00	5 yr.	25.00	None	Yes	Yes	No
VADA	1500	12	Yes	75.00	10.00	18	Yes	75.00	10.00	2 yr.	20.00	6 mo. App.	Yes	No	No
W HAMPSHIRE	1000	10	No	No exam	6.00	9	Yes	10.00	5.00	5 yr.	5.00	None		Yes	No
W JERSEY	1000	8	No	25.00	10.00	18	Yes	25.00	8.00	2 yr.	15.00	12 mo.	No	No	No
W MEXICO	1244	12	Yes	15.00	10.00	18	Yes	15.00	10.00	3 yr.	15.00	None	Yes	Yes	No
W YORK	1000	6	No	No exam	2.00	24	No	10.00	6.00	5 yr.	12.00	None	No	No	No
RTH CAROLINA	1528	8	Yes	25.00	12.50	18	Yes	25.00	12.50	3 yr.	20.00	None	No	No	No
RTH DAKOTA	1550	12	Yes	10.00	10.00	24	Yes	20.00	15.00	5 yr.	5.00	None	Yes	Yes	No
O	1800	8	Yes	7.50	3.00	18	Yes	18.00	7.50	None	15.00	None	No	No	N
LAHOMA	1500	8	Yes	No exam	10.00	18	Yes	10.00	10.00	None	10.00	None	No	No	N
EGON*	1350	8	Yes	12.00	8.00	15	Yes	40.00	10.00	5 yr.	15.00	None	Yes	No	N
NNSYLVANIA	1250	8	Yes	10.00	None	15	Yes	25.00	5.00	4 yr.	Lapsed fees	None	Yes	Yes	Y
ODE ISLAND	1500	8	Yes	No exam	5.00	24	Yes	15.00	5.00	3 yr.	5.00	None	No exam	No	N
UTH CAROLINA	1500	9	Yes	20.00	5.00	18	Yes	20.00	10.00	5 yr.	5.00	None	Yes	Yes	N
UTH DAKOTA	1500	10	Yes	20.00	10.00	24	Yes	20.00	10.00	3 yr.	12.00 plus lapsed fees	None	Yes	Yes	Y
NNESSEE	1500	8	Yes	40.00	10.00 bien.	24	Yes	50.00	12.00 bien.	Anytime	15.00 plus lapsed fees	None	Yes	Yes	N
KAS	1200	7	Yes	10.00	25.00	18	Yes	10.00	12.50	5 yr.	30.00	None	No	Yes	Y
AH	1250	8	Yes	5.00	5.00	18	Yes	10.00	5.00	3 yr.	10.00 plus lapsed fees	90 days	Yes	No	Y
RMONT*	1000	8	Yes	None	2.00	12	Yes	6.00	5.00	3 yr.	5.00	None	Yes	No	N
GINIA	1248	None	Yes	5.00	5.00	18	Yes	15.00	5.00	1 mo.	7.00	None	Yes	Yes	N
HINGTON	1248	10	Yes	25.00	9.00	18	Yes	15.00	9.00	3 yr.	15.00 plus lapsed fees	None	No	No	N
HINGTON, D.C.	1000	None	No	20.00	5.00	24	No	35.00	15.00	None	20.00	None	Yes	No	N
T VIRGINIA	1800	8	Yes	20.00	5.00	12	No	20.00	10.00	Anytime	Lapsed fees	None	Yes	Yes	Y
CONSIN	1248	10	No	20.00	10.00	36	No	30.00	10.00	Anytime	Lapsed fees	None	No	No	No
MING	1250	10	Yes	12.50	7.00	18	Yes	25.00	10.00	3 yr.	17.50	None	Yes	Yes	Y

* Last Year's Figures

$25 to $30, nine $20, sixteen $10 to $15 five less than $10, one $17, one, $40, and Nevada a high of $75. The remaining four have no apprentice exam.

In twenty-six states the length of apprenticeship is 18 months, in nine states 12 months, in eight 24 months, in four 15 months. One state requires 27 months, another 36 months, and a third a low of 9 months.

The range of requirements among the states -- barber school training from none to 2000 hours, formal education from 5 to 12 years, apprentice exam fees from $0 to $75 with six states having no apprentice exam, and length of apprenticeship from nine months to three years -- holds out little hope for the achievement of more than minimal reciprocity as long as licensing is under state control. The lack of reciprocity is a major impediment to mobility.

There are other severe impediments to mobility in the barber licensure laws: Twenty-one states give no credit for out-of-state experience; in twenty-three states a graduate of an out-of-state school is not eligible to take the apprentice examination; and in thirty-five states an out-of-state barber cannot even obtain a temporary permit prior to taking the state's licensing exam. These barriers make the cost of moving extremely high.

Examinations and Barber Schools

All three states provide for the licensing and detailed regulation of barber schools by the barber boards. The regulations are specific with respect to the content of the curriculum and the qualifications of the instructors. Connecticut even requires that there shall be at least one instructor in attendance for every ten students (a lower student-faculty ratio than almost all universities or colleges!). The curriculum in Connecticut calls for 300 hours of Trade Theory, 1050 hours of Practical Work, 110 hours of General Trade Information, and 40 hours of Applied Mathematics! (See following four pages for the Connecticut curriculum outline.)

When I asked the "barber examiner" of the Connecticut licensing board what kinds of difficulties applicants have on the board's exams and what was the most important reason for failure, he replied, "They have more difficulty on the written than the practical. Most failures are on the written. They often miss on the physiological structure -- they can't remember the number of muscles and bones in the head. Another one they miss on is the difference between a disinfectant and a -- I can't even remember the other one myself." When I suggested "antiseptic," he said, "Yes, that's it, they can't tell which is which." Three times during our discussion he could not remember the word "antiseptic." And he constructed and administered the exams! Furthermore, it is difficult to see the relevance of knowledge of the number of muscles and bones in the head as a test of a barber's competency to cut hair.

In Rhode Island, the board members agreed that the most common reason for failure is the shave -- "they don't get enough practical experience. There's not enough shaves even

CONNECTICUT STATE DEPARTMENT OF EDUCATION
Bureau of Vocational Education

Preparatory Course
For the Barber Trade

Trade and Related Instruction

1. The instruction identified in this section covers pre-apprenticeship training as requried under Public Act #8824 (an act concerning Barbers) and is intended to prepare the student for an apprentice license. A majority of the time has been apportioned to practical training for two reasons:
   (a) A student must develope basic skills to a considerable extent before he may enter a barber shop as an apprentice and perform work upon regular customers.
   (b) The student may have an opportunity to complete technical and related training during his On-The-Job training since completion of his one-year apprenticeship requires that he attend classes for this type of instruction a minimum of 140 hours.

   The course has been set up to include a full school year of approximately 1,200 hours, 300 hours less than the minimum required by law, in order that the course may be coordinated with the Vocational-Technical School program. The student will thus be required to return to school next September to complete the additional 300 hours.

2. The time allotment shall be 1,500 hours and will provide:
   (a) The related technical knowledge of the barber trade.
   (b) The basic skills of the trade - to provide sufficient knowledge to continue as a barber apprentice.
   (c) General trade information necessary for basic understanding of trade processes.
   (d) Trade hazards and safety.

1,500 Hour Barber Program

Trade Theory	300 hours
Practical Work	1050 hours
General Trade Information	110 hours
Applied Mathematics	40 hours
Total -	1500 hours

3. Experience has shown that 1500 hours is reasonably adequate for basic training in this trade.

CONNECTICUT STATE DEPARTMENT OF EDUCATION
Bureau of Vocational Education

Preparatory Course
For the Barber Trade

Trade and Related Instruction

Trade Theory

Estimated Hours

History of Barbering

	Estimated Hours
1. Orientation	5
2. Scope of Cosmetics	1
3. Ancient Practices	2
4. The New Barber	1
5. What of Tomorrow	1
6. State Board Requirements for Licenses	2
7. Development of Modern Cosmetology	1
8. Legislation	2

Instruments and Accessories

Practical Skills

	Estimated Hours
1. Haircutting	5
2. Shaving	5
3. Shampooing	5
4. Massaging	5
5. Singeing	1
6. Honing and Stropping	3
7. Hair Tonic Application	1

Bacteriology

	Estimated Hours
1. How Germs Make Us Sick	1
2. Germs	1
3. How the Body Protects Itself Against Germs	1
4. Necessity for Sterilization	3
5. Disease Germs, Bacteria and Infection	1
6. Antiseptics, Germicides, Disinfectants and Deodorants	3
7. Methods of Sterilization	2

Anatomy and Physiology

	Estimated Hours
1. The Miracle of Growth	5
2. The New Age of Health	60

Research
Nutrition
Mental and Emotional Health
Your Health is in Your Hands
An Erect Body is a Well-Balanced Body
Your Feet Are Your Body's Foundation
The Skin is Nature's Covering of the Body
Glossy Hair is Healthy Hair
Clean Hands are Always Safe Hands
Voice and Face Reflect the Personality
Good Eyesight Makes Learning Easier
A Keen Sense of Hearing Makes for Alertness
Foods Serve Three Main Purposes
Foods Undergo Many Changes in the Body

Continued.

Preparatory Course
For the Barber Trade

The Blood Travels in a Continuous Stream
Waste Materials are Removed from the Body
Your Body Needs Regular Exercise
Rest and Sleep Renew our Bodies Daily
Your Nervous System Directs Your Life
We can grow Old and be Well
We Inherit Some Traits but we Acquire Others
Stimulants and Narcotics can be very Harmful
Self-Prescribed Medicine can be Most Injurious
Your Mental Outlook may Help or Hinder
Many Diseases can now be Controlled
Your Community helps to Affect your Health
You may have to know First Aid
The Accident Toll can be Reduced
School and work also Present Dangers
3. How to Relax — 3
    Relaxation Exercises
4. Controlling the Human Machine — 5
5. Ductless Glands and their Work — 2
6. Climate Control - From Within — 2
7. Introducing the Brain — 8
    The Memory - Remarkable Storage Battery —
8. Pain - First Signal of Danger — 3
    When you Have a Fever
9. Digestion — 8
    Chemical Changes in Complex Foods
    Digestion in the Mouth
    How Food Reaches the Stomach
    What Happens in the Stomach
10. Breathing — 2
11. Sweat — 2
12. The Mysterious Power of Human Sight — 10
    The Evolution of Eyes
    The Care of Eyes
    Crossed Eyes
    What you should Know about Cataracts
13. The Human Hand - Our Greatest Tool — 5
14. Nails
15. Foot Care - Foor Preparations

Men's Razor Haircutting
1. Introduction — 2
2. Basic Principles of Hairstyling — 1
3. Implements used in Razor Haircutting — 1
4. Hair Analysis - Problem Hair — 1
5. Types of Razors — 1
6. Razor and Comb Techniques — 3
7. Hair Sectioning — 2
8. Basic Steps of a Standard Razor Haircut — 2
9. Safety Precautions and Reminders — 2
10. Review Questions and Answers — 5

Continued.

Preparatory Course
For the Barber Trade

Finger Waving Men's Hair

1. Introduction ———————————————— 1
2. Styling Lotion and Combs ———————————— 1
3. Finger Waving ———————————————— 2
4. Popular Finger Waving Hair Styles ———————— 2
5. Reminders and Hints of Finger Waving —————— 1
6. Review Questions and Answers ————————— 3

for licensed barbers." If so, then why should the shave be the most common reason for failure?

Analysis of Failure Rates on Licensure Exams

Beginning in 1962, there was a substantial decline in the demand for barbering services in Rhode Island as a result of the pronounced trend toward long hair for men. The shift in demand is reflected in the decline in the total number of current licenses issued in the state between 1962 and 1973-74, form 1,526 to 1,102, a decline of 27.8 per cent. Over the same period the decline in Connecticut licenses was only 8.9 per cent, or less than one-third the rate of decline in Rhode Island.[2]

The change in the market conditions for Rhode Island barbers is reflected in the failure rate data. Over the ten-year period since 1964, 18.7 per cent of those taking the barbers' exam failed, whereas in the previous ten-year period, the failure rate was only 7.1 per cent (see Tables 8, 9 and 10).

Correlation Anaylsis: Regressions were run using failure rate data on barber exams in Rhode Island and Connecticut with national unemployment rates as the independent variable. Because of the precipitous decline in barbering services in Rhode Island discussed above, the regression was run for the period from 1941 through 1964-65. The data available from Massachusetts did not cover a long enough period of time for a meaningful regression analysis. Following are the statistical results for the Rhode Island and Connecticut data:

1. Failure rates on barber exams (R. I.) vs National Unemployment Rates for 24 years (1941 through 1964-65):

$R^2 = 0.2214$
t-statistic = 2.50084

The t-statistic indicates significance at the 5 per cent level.

2. Failure rates on barber exams (Conn.) vs National Unemployment Rates for 22 years (1937-38 through 1949-50 and 1964-65 through 1973-74):

$R^2 = 0.1382$
t-statistic = 1.79081

The t-statistic indicates significance at the 5 per cent level.

The above results support the hypothesis that failure rates are influenced by the level of unemployment.

TABLE 8

BARBERS (CONNECTICUT)

Year	Examined	Failed	Failed (%)
1973-74	155	1	.6
1972-73	182	19	10.4
1971-72	175	17	9.7
1970-71	241	8	3.3
1969-70	337	9	2.7
1968-69	399	26	6.5
1967-68	440	56	12.7
1966-67	401	34	8.5
1965-66	367	58	15.8
1964-65	430	46	10.7
1949-50	101	39	38.6
1948-49	90	38	42.2
1947-48	79	15	19.0
1946-47	87	3	3.4
1945-46	--	--	--
1944-45	49	9	18.4
1943-44	70	4	5.7
1942-43	60	2	3.3
1941-42	111	12	10.8
1940-41	149	31	20.8
1939-40	116	30	25.9
1938-39	109	21	19.3
1937-38	136	51	37.5

Source: 1964-65 through 1973-74 data were supplied by the Connecticut Board of Examiners of Barbers. The 1937-38 through 1949-50 failure data are from the Annual Reports of the board and the number examined was calculated from those reports by dividing the income from examinations by the license fee.

TABLE 9

BARBERS (RHODE ISLAND)

Year	Examined	Failed	Failed (%)
1973-74	11	1	9.1
1972-73	12	2	16.7
1971-72	15	1	6.7
1970-71	29	6	20.7
1969-70	33	13	39.4
1968-69	41	1	2.4
1967-68	48	11	22.9
1966-67	44	10	22.7
1965-66	61	14	23.0
1964-65	42	4	9.5
1963-64	54	4	7.4
1962	52	5	9.6
1961	56	10	17.9
1960	67	4	6.0
1959	65	2	3.1
1958	78	9	11.5
1957	72	10	13.9
1956	67	0	0
1955	52	0	0
1954	55	0	0
1953	49	1	2.0
1952	35	1	2.9
1951	36	0	0
1950	35	2	5.7
1949	52	2	3.8
1948	39	4	10.3
1947	41	3	7.3
1946	43	3	7.0
1945	15	0	0
1944	15	0	0
1943	6	0	0
1942	12	0	0
1941	26	2	7.7

Source: Annual Reports of the Rhode Island Division of Professional Regulation.

TABLE 10

BARBERS (MASSACHUSETTS)

Year	Examined	Failed	Failed (%)
1974	121	16	13.2
1973	94	14	14.9
1972	98	12	12.2
1971	122	15	12.3
1970	158	22	13.9
1969	154	28	18.2
1968	210	47	22.4
1967	297	59	19.9
1966	305	57	18.7

Source: Board of Registration of Barbers, Massachusetts.

FOOTNOTES

1. Letter of Attorney General Joseph Nugent to Governor Christopher DelSesto, August 28, 1959.

2. *Annual Reports* of barber boards in Rhode Island and Connecticut.

HAIRDRESSERS AND COSMETOLOGISTS

Licensing Board

The Rhode Island Board of Hairdressers has three members, each with at least five years experience as a licensed hairdresser and cosmetician. They are appointed by the governor for a two year term and are compensated at a rate of $10 per day (with a maximum of $60 per month) when attending meetings, examinations, or inspecting places of business and schools licensed under the law. The board regulates the members of the occupation as well as the schools which train hairdressers and cosmeticians and manicurists.

The three board members, all also members of the hairdressers' association, asserted when interviewed, that they did not know how or why they were picked. One said, "Maybe the association gave our names to the governor."

Connecticut does not have a licensing board for hairdressers. Instead the law is administered by a "Senior Hairdressing Inspector" with civil service status in the Licensure and Registration Division of the State Department of Health. In addition, there are three regular inspectors.

Licensure Requirements

Both Rhode Island and Connecticut issue five similar classes of licenses but the requirements for licensure vary somewhat.

(1) Operator: In both states the applicant must be a citizen

of the United States or have legally declared his intention of becoming one and must be of good moral character." Rhode Island has a minimum age requirement of 17 while in Connecticut it is 18. Rhode Island requires that 1500 hours of instruction over a term of 12 months must be completed in a school of hairdressing and cosmetology approved by the board, whereas in Connecticut 2000 hours are required.

(2) Assistant Hairdresser and Cosmetician: Both states require that the applicant must have held an operator's license for at least one year under the supervision of a licensed hairdresser and cosmetician.

(3) Licensed (in Connecticut "Registered") Hairdresser and Cosmetician: In both states the applicant must have held an assistant hairdresser and cosmetician's license for at least one year.

The above three comprise over 95 per cent of the occupational licenses issued by the hairdressers boards. To reach the top of the profession -- licensed hairdresser and cosmetician -- it takes a minimum of three years in both states. However, Connecticut requires 500 more hours of schooling than does Rhode Island.

The two other occupations licensed by both boards are:

(4) Instructor: In Rhode Island the individual must have five years' experience as a licensed hairdresser and cosmetician. Connecticut requires that the applicant have a high school education and have a license as a registered hairdresser and cosmetician.

(5) Manicurist: While Rhode Island demands 300 hours of study and training in a board-approved school, Connecticut calls for 500 hours of such schooling.

The examination fee in Connecticut is $10 for an operator, $25 for a registered hairdresser and cosmetician, $20 for an instructor and $5 for a manicurist. Rhode Island has the same examination fee for all licenses -- $15.

In addition to the five occupations, the boards also license shops. A license to operate a shop in Rhode Island is granted only if the proprietor or manager has been a licensed manicurist or hairdresser and cosmetician for a period of at least one year. In Connecticut there is no one year requirement but the proprietor or manager must be a registered hairdresser or cosmetician. The fee for a shop license is $50 in Connecticut and $20 in Rhode Island, and the annual renewal fees are $10 and $5 in the respective states.

License Fees

Both Rhode Island and Connecticut have annual renewal fees of $5 for the various classes of licenses.

Reciprocity

Persons with licenses to practice hairdressing and cosmetic therapy and/or manicuring in another state where the requirements are the equivalent of those in Rhode Island can be licensed in Rhode Island after passing a written and practical exam provided that the same privileges are granted to Rhode Island licentiates in the other state.

If the requirements in the other state are not equivalent to those in Rhode Island, the board will give the individual 100 hours instructional credit for each year the person was in actual practice up to a limit of 500 hours. (The instruction requirement in Rhode Island is 1500 hours.) The out-of-state licensee can practice in Rhode Island for three months provided that he apply for and is duly licensed in Rhode Island within three months from the commencement of his employment.

Connecticut provides for full reciprocity for the licensee of another state, at the discretion of the Connecticut department, if the other state's requirements are equivalent and if that state accords a like privilege to holders of Connecticut licenses.

Price Fixing, Advertising, and Work Restrictions

Price fixing: The hairdressers' law in Rhode Island contains the following provisions for price and hours regulation:

> (a) The provisions of this chapter are hereby declared, as a matter of legislative determination to be enacted for the protection of public health, public morals, public safety and the promotion of the general welfare. The practice of manicuring and/or hairdressing and cosmetic therapy and the operation of shops, places of business and establishments for the conduct of said practice are hereby declared to be inseparably combined with the promotion of public morals, public health, public safety and general welfare, and to that end, the establishment of minimum prices for any services rendered and the regulation of the hours of operation of shops, places of business and establishments practicing manicuring, hiardressing and cosmetic therapy will tend to stabilize said business, safeguard fair competition, facilitate adequate sanitary inspection and regulation, terminate unfair, demoralizing and uneconomic competition and practices existing among such shops, place of business and establishments practicing hairdressing and cosmetic therapy and promote public health, public morals, public safety and general welfare.
>
> (b) The board of hairdressing shall have power, by official order and after public hearing to establish the hours during which such shops, places of business and establishments shall remain open for the transaction of business, establish minimum charges for any service rendered therein and limit the number of schools of manicuring and/or hairdressing and cosmetic therapy established under the provisions of this chapter, provided no school of hairdressing and cosmetic therapy, duly authorized and issued a certificate of approval prior to May 5, 1942, shall be

> denied a renewal of its certificate of approval so long as it continues to comply with the requirements of this chapter herein elsewhere contained.
>
> (c) No such order, establishing the hours during which such shops, places of business and establishments shall remain open for business, or establishing a minimum price for services rendered therein shall be entered by said board except after public hearing and the filing with said board of a written agreement, or agreements, signed by the duly authorized officer or officers of an organized and representative group or groups, of persons licensed under the provisions of this chapter as manicurists, hairdressers and cosmeticians, assistant hairdressers and cosmeticians or operators, representing at least sixty per cent (60%) of such persons holding licenses issued by said board, and adopted or approved by an affirmative vote of two-thirds of such licensees present at a meeting or meetings called for that purpose and certified to said board over the signature of the recording officer or officers of such meetings.
>
> (d) All such orders of said board establishing such hours of operation and minimum prices shall remain in full force and effect for one (1) year from the date of entry thereof and shall be renewed annually unless rescinded, modified or abrogated by a new agreement adopted under the same terms and conditions as set forth in paragraph (c) of this section - -

Since the Attorney General's 1959 advisory opinion with respect to similar provisions in the barber law (see p. 30) -- that such price-fixing arrangements are unconstitutional -- the hairdressers' board has not attempted to enforce the above price-setting provisions. However, when the board members were asked in an interview what they thought was the effect of the Attorney General's opinion, one responded, "We feel there is no problem now. There is a gentlemen's agreement among hairdressers not to cut price."

Advertising: Provisions of the hairdressers' law prohibiting the advertising of prices, fees, charges or rates for performing or rendering any operation or service in the hairdressing business was held unconstitutional and void as being contrary to the provisions of the U. S. Constitution, Amendment 14, Section 1, in that it constitutes an arbitrary and unreasonable restriction on the licensee's liberty of contract and a taking of property without due process of law. /Haigh v. State Board of Hairdressing (1950), 76 R. I. 512, 72 Atl. (2d) 674./

Work restrictions: In Connecticut "no shop, store or place in which it is desired to conduct the business of hairdresser or cosmetician shall be connected with a barber shop or use the same entrance as a barber shop."

Only registered hairdressers and cosmeticians who own a shop, or their licensed employees if they are so designated by their employer, may practice in the home of a patron in Connecticut. Charges of "home practice" is a common complaint, according to Connecticut's Senior Inspector.

With respect to schools of hairdressing and cosmetology, Connecticut requires that there be one instructor for each 40 or fewer students in lecture classes and one for each 20 or fewer students in classes where there is practical instruction. Rhode Island, on the other hand, requires one instructor for each 15 students.

In Connecticut, a manicurist can practice her trade only under the supervision of a licensed hairdresser-cosmotologist. This means that she cannot set up a practice on her own nor can she work in a barber shop.

The above constraints can only tend to restrict supply, raise price, and reduce occupational mobility.

Jurisdictional Disputes

In November of 1973, hearings were held by a Special Legislative Commission to study the Separate Licensing of Hairdressers and Cosmetologists. The Commission was created by the Rhode Island legislature. The following is an excerpt from the Commission's report:

> The Commission held a meeting on November 13, 1973, to which it invited those known to be proponents of the Separate licensing of cosmetologists and manicurists. These people stated that they should not be required to complete the approximately one year of schooling required for a hairdressing license when in fact all they wish to do is apply cosmetic preparations or give manicures. Most of the discussion centered around the separate licensing of cosmetologists. These individuals were in the business of selling cosmetics and regarded the right to apply cosmetics to their customers as an aid in the sale of such cosmetics. They pointed out that under existing law they were unable to apply these cosmetics unless they held a hairdressers license. They advocated that they be required to complete a limited course of study and then pass an examination prior to receiving the separate license to apply cosmetics. They further pointed out that the application of cosmetics and manicures were not now generally available in hairdressing establishments since hairdressers were more interested in working on a customer's hair and that, therefore, there was a need for these other services and for separate licensing.
>
> The Commission held another hearing on November 27, 1973, to which it invited various haridressing associations the Rhode Island Board of Hairdressing, the Rhode Island Board of Barber Examiners, representatives of hairdressing schools throughout the state, and representatives from barbers' unions.
>
> The testimony at this hearing was generally to the effect that there should not be separate licensing of cosmetologists and manicurists, since licensed hairdressers perform those services at the present time, and that, in any event, there was no need for such services since the public had long since ceased to demand them except in rare instances, and that whatever demand existed for such services was adequately met by licensed hairdressers. In addition, these people stated that separate licensing would lead to unnecessary fragmentation of hairdressing and would lead to abuses. They pointed out that there was not now, to their knowledge, any other state which had a separate licensing procedure for cosmetologists, although there were thirty-five

> states which separately license manicurists. They indicated that it would be impossible to license a cosmetologist with less schooling than required for a hairdresser since there was great danger in allowing an unskilled person to apply cosmetics to the face or body of another person without having adequate knowledge of skin care and allergic reactions. Furthermore, they expressed concern that a manicurist or cosmetologist working in a hairdressing studio would be pressed into service illegally as a hairdresser because hairdressing services were in greater demand. They also stated that the State Board of Hairdressing had only one inspector, and that although he was doing a creditable job, he was in need of assistance even now, and that in the event of separate licensing for cosmetologists and manicurists there would be need for appointment of many more inspectors to check for violations (underlining added).

The underlined passages are of considerable interest in the light of comments made by the Rhode Island board members when they were interviewed as part of this project. When the three board members were asked who supported the legislation under consideration, they said that they did not know. One said that it was probably some legislator. Another suggested that it may have been pushed by cosmetic firms. When they were asked if anyone interested in lower requirements for cosmetologists testified for the legislation, they said they did not know. They also claimed that the hairdressers' board was not involved in the hearings and that "maybe the hairdressers' association participated."

However, the underlined passages of the Commission's report indicate that supporters of lower requirements for cosmetologists did in fact appear before the board. Even more significant is the fact that the Rhode Island Board of Hairdressing was one of the invited participants, yet the three board members claimed that the Board was not involved. Moreover, the current chairman of the Board, one of those interviewed, was also the Board chairman at the time of the hearings!

That at the hearings the opponents of lower requirements for cosmetologists "expressed concern that a manicurist or cosmetologist working in a hairdressing studio would be pressed into service as a hairdresser" suggests that their real concern was the possibility of increased competition. Furthermore, their fear that "there was a great danger in allowing an unskilled person to apply cosmetics to the face or body of another person without having adequate knowledge of skin care and allergic reactions" was a straw man. Even assuming such knowledge is necessary, the proponents of lesser requirements for cosmetologists did not argue for the elimimation of study and training. All they were asking for was that training in hairdressing not be required -- that a course of study limited to cosmetology and an examination should be all that is necessary for an individual in the business of selling cosmetics to have the right to apply cosmetics to their customers. Under existing law they could not apply cosmetics unless they had a hairdresser's license.

That the Commission did not recommend the separation of cosmetology from hairdressing with respect to licensing is not surprising given the opposition of various hairdressing associations, the Rhode Island Board of Hairdressing, representatives of hairdressing schools throughout the state, and the fact that there are more than 5,000 licensed hairdressers in the state.

Revocation or Suspension of a License

In both Connecticut and Rhode Island a license may be suspended or revoked for any violation of the statute, and in Rhode Island there is the catch-all grounds -- "for any other cause" as the majority of the board "shall deem sufficient."

Examinations

Rhode Island gives a written and a practical exam whereas Connecticut requires only a written exam.

Analysis of Failure Rates on Examinations

Connecticut data were available from the Hairdressers' Division for three classes of examinees: (1) Registered Hairdressers, (2) Operators and, (3) Out-of-State licensed hairdressers who took the exam to become Registered Hairdressers in Connecticut (see Tables 11 and 12). Regressions were run (of failure rates on the exams vs the unemployment rate) for each of the exams covering the period from 1957-58 through 1973-74. In addition, a regression was run for the combined failure rates for the three classes of examinees, again with the unemployment rate the independent variable.

1. Failure rates on exams for Registered Hairdressers (Conn.) vs National Unemployment Rates for 16 years (1957-58 through 1973-74):

   $R^2 = 0.1293$
   t-statistic = 1.44176

   The t-statistic indicates significance at the 10 per cent level.

2. Failure rates on exams for Operators (Conn.) vs National Unemployment Rates for 16 years (1957-58 through 1973-74):

   $R^2 = 0.1085$
   t-statistic - 1.30531

   Although failure rates are positively correlated with unemployment rates as hypothesized, the t-statistic is not significant at the 10 per cent level.

3. Out-of-state licensed hairdressers taking the Connecticut exam vs National Unemployment Rates for 16 years (1957-58 through 1973-74):

   $R^2 = 0.2177$
   t-statistic = 1.97400

   The t-statistic is significant at the 5 per cent level.

4. Combined Hairdressers (Registered Hairdressers, Operators, and Out-of-State Licenses taking Connecticut exam) vs National Unemployment Rates (1957-58 through 1973-74):

   $R^2 = .2221$
   t-statistic - 1.99936

   The t-statistic is significant at the 5 per cent level.

Of the four regressions, then, two were significant at the 5 per cent level, one at the ten per cent level, and while one was not significant at the 10 per cent level, its failure rates were, as were those of the other three, positively correlated with unemployment rates as hypothesized.

The data for Rhode Island Hairdressers and Cosmetologists were not adequate for regression analysis. Exams are given four times a year. During the ten-year period for which some data were available, there was a complete gap in 1971-72, and of the four exams given annually, data for only one exam was available in 1969-70, for three exams in 1967-68, and for only two in 1964-65 and 1973-74. Since over the entire ten-year period data could not be obtained for 15 of the 45 exams given, it was impossible to get an accurate picture of what had happened on an annual basis (see Table 13).

However, it is of some significance to note that the overall failure rate for comparable years was 10.3 per cent in Connecticut and only 6.3 per cent in Rhode Island, despite the fact that Connecticut required 2000 hours of hairdresser-school training and Rhode Island only 1500 hours.

TABLE 11

HAIRDRESSERS AND COSMETOLOGISTS (CONNECTICUT)

Year	Registered Hairdressers			Operators			Out-of-State Licensees (Registered Hairdreaser		
	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)
1973-74	340	62	18.2	785	62	7.9	70	15	21.4
1972-73	335	96	28.7	846	95	11.2	60	16	26.7
1971-72	331	90	27.2	749	112	15.0	49	21	42.9
1970-71	210	8	3.8	832	62	7.5	46	6	13.0
1969-70	374	37	9.9	1029	98	9.5	44	5	11.4
1968-69	309	28	9.1	974	90	9.2	33	5	15.2
1967-68	248	14	5.6	967	88	9.1	34	7	20.6
1966-67	278	33	11.9	1028	95	9.2	29	4	13.8
1965-66	315	22	7.0	1023	114	11.1	31	5	16.1
1964-65	286	20	7.0	1067	108	10.1	22	3	13.6
1963-64	299	36	12.0	1051	86	8.2	29	2	6.9
1962-63	291	25	8.6	1087	93	8.6	15	4	26.7
1961-62	--	--	--	--	--	--	--	--	--
1960-61	180	22	12.2	721	105	14.6	33	9	27.3
1959-60	195	21	10.8	563	94	16.7	18	8	44.4
1958-59	143	12	8.4	371	56	15.1	15	8	53.3
1957-58	138	2	1.4	347	67	19.3	25	14	56.0

Source: Hairdressers' Division, Connecticut.

TABLE 12

HAIRDRESSERS AND COSMETOLOGISTS REGISTERED, OPERATORS, AND OUT-OF-STATE LICENSEES COMBINED (CONNECTICUT)

Year	Examined	Failed	Failed (%)
1973-74	1195	139	11.6
1972-73	1241	207	16.7
1971-72	1129	223	19.8
1970-71	1088	76	7.0
1969-70	1447	140	9.7
1968-69	1316	123	9.3
1967-68	1249	109	8.7
1966-67	1335	132	9.9
1965-66	1369	141	10.9
1964-65	1375	131	9.5
1963-64	1379	124	9.0
1962-63	1393	122	8.8
1961-62	--	--	--
1960-61	934	136	14.6
1959-60	776	123	15.9
1958-59	529	76	14.4
1957-58	510	83	16.3

Source: Based on data in Table 11.

TABLE 13

HAIRDRESSERS AND COSMETOLOGISTS (RHODE ISLAND)

Year	Examined	Failed	Failed (%)
1973-74	252	11	4.4
1972-73	323	16	5.0
1971-72	--	--	--
1970-71	60	1	1.7
1969-70	132	0	0.0
1968-19	376	7	1.9
1967-68	341	26	7.6
1966-67	341	39	11.4
1965-66	313	32	10.2
1964-65	115	9	7.8

Note: Four exams are given annually. The data available for 1964-65 and 1973-74 were for only two exams, for 1967-68 three exams, and for 1969-70 and 1970-71 only one exam.

Source: Rhode Island Board of Hairdressers.

ELECTRICIANS

Licensing Boards

The Rhode Island State Board of Examiners of Electricians has five members. One is a master electrician who represents the employers, one is a journeyman electrician representing labor, a third is a qualified employee of an electric utility company to represent the utility companies, a fourth is an electrical inspector of a city or town to represent the general public, and the fifth (ex officio) is the Superintendent of the State Police. All are appointed by the governor for a four-year term and each received \$20 a day for actual service with a maximum of \$1000. The chairman receives an additional \$150. According to the chairman of the board, "the utility companies designate a representative," the journeyman representative is "usually the union's business manager," and "there is a political element in the selection of the contractors' representative."

The State Examiners of Electricians in Massachusetts includes the director of civil service, the state fire marshall, and the associate commissioner for the division of occupational education, ex officiis, and four persons appointed by the governor for a three-year term. One of the appointees is a public representative, another is a local wiring inspector with an electrician's license, the third is a licensed master electrician with ten years' experience and the fourth is a licensed journeyman who is a wage earner, also with ten years' experience. The board appoints an Executive Secretary (a full-time salaried position) who is a wage earner and an electrician with at least ten years' experience. The members appointed by the governor receive $750 annual compensation. When the Executive Secretary of the board was asked what the appointment procedure was, he responded that he really didn't know but he assumed "some patronage was involved."

The Connecticut board has two master electricians, two journeymen, and a public representative who is not an electrician. They are appointed by the governor for a six-year term and receive only necessary expenses. The four electricians on the board are selected from a list of names submitted by their respective associations.

Licensing Requirements

Journeymen: The applicant in Rhode Island must be at least 18 years of age, have two years' practical experience as an apprentice and pay a $10 examination fee.

Massachusetts requires a three-year apprenticeship. Credit toward the apprenticeship requirement is given for one-half the total time spent in an all-day vocational school, but not exceeding two years. The examination fee is $5.

The Connecticut applicant must be at least 20 years of age, a graduate of a grammar school, and have completed a bona fide apprenticeship. In addition he must have five years' practical experience in the trade and pay a $15 examination fee.

Masters: The Rhode Island applicant must be at least 21 years of age and have had at least five years' practical experience in trade. The examination fee is $40. Massachusetts requires at least one year's experience as a licensed journeyman and Connecticut two such years. Both states have a $25 examination fee.

Thus while it takes a minimum of four years to become a master electrician in Massachusetts, it requires at least five years in Rhode Island and seven in Connecticut.

License Fees

For an initial license in Massachusetts the fee is $25 for masters and $3 for journeymen and annual renewal fees are, respectively, $40 and $10 for journeymen with similar charges for annual renewal of the licenses. In Rhode Island the initial license fee is $40 for masters and $10 for journeymen and the annual renewal fees are $40 and $1, respectively, for masters and journeymen.

Reciprocity

None of the three states has any provision for reciprocity. The Rhode Island board chairman interviewed said "we have contacted Connecticut and Massachusetts but they were not interested." He believed that "contractors on state borders would object to reciprocity" and pointed out that "many in border areas have dual licenses" so that they can work in two states. When the Massachusetts' Executive Secretary was asked what he thought of reciprocity, he replied, "I believe a Federal role is coming. The fellow in the other state may be more qualified than the man in our state." The Connecticut Executive Secretary also said he would favor reciprocity if the states had similar standards, but expressed the view that Connecticut standards "are considerably higher."

Work Restrictions

A journeyman in Rhode Island or Connecticut is restricted to working as an employee of a contractor (i.e., master electrician) and cannot enter into contracts to perform electrical work. Although the Massachusetts law is in this respect more liberal, as interpreted by the board and the courts, it is still restrictive. The following case illustrates the problem:

Two electrical contractors and the Massachusetts Electrical Contractors Association in 1973 petitioned the state's Superior Court for a declaratory judgment. The petition asked the Court to declare whether or not journeymen electricians may, under the licensing law of the state, contract to do electrical work for others or employ learners or apprentices to do such work. The contractors wanted to prevent journeymen from contracting for work and from employing others; they held that journeymen may engage in electrical work only as employees. The board supported the journeymen, ruling that a journeyman may engage in contracting for electrica work provided that he does not have more than one helper or apprentice in his employ. The Court upheld the board. The Court concurred in and cited the following 1962 opinion of the Attorney General:

> A provision that a man licensed and certified to be competent to do the work in question could not lawfully do such work unless he was also licensed to employ others to do it, or without letting his services out to a licensed master electrician, would be such a limitation upon what have generally been recognized as fundamental rights of a citizen of this Commonwealth and Country that it should not be read into a statute unless clearly called for.

The Massachusetts law as interpreted by the board and the court although more liberal than the laws in Rhode Island and Connecticut, makes little economic sense. In essence, a Massachusetts journeyman has the right to contract for work because he is "licensed and certified to be competent to do such work and unless he was also licensed to employ others to do it" his fundamental rights as a citizen would be violated. However, both the board and the court in that same case held that while the journeyman can employ an apprentice to work under his direct personal supervision, he cannot employ another journeyman.[1] That is, he can employ an apprentice but cannot employ a journeyman despite the fact that the latter has more experience and is presumably more competent!

The persistence of the problem is indicated by the fact that as long ago as 1915, the Attorney General of Massachusetts, in response to a request from the electricians' board, rendered precisely the same opinion![2]

The Massachusetts board has also ruled that two or more journeymen associated as partners cannot contract for work without the necessary master electrician's license (but an individual journeymam can!)[3]

The above are examples of the kind of jurisdictional disputes which frequently arise under licensing legislation -- journeyman plumbers vs master plumbers, hairdressers vs barbers, opticians vs nurses, cosmetologists vs hairdressers -- and in this case, journeymen electricians vs master electricians.

In Rhode Island and Massachusetts an apprentice must work under the direct supervision of a journeyman and there can be only one apprentice per journeyman on any job. In Connecticut an apprentice can also work under a licensed contractor.

Analysis of Failure Rates on Licensure Exams

Failure rate data on electricians' licensure exams were available for the past five years for Rhode Island and Connecticut. In

Massachusetts the data covered a full 58 years (see Tables 14, 15 and 16).

Although the Connecticut and Rhode Island data are not adequate for correlation analysis, they do raise some serious questions about the validity of the examination process and apprenticeship requirements. In Rhode Island, which requires five years' experience before an individual can take an exam for a master's license, 38.5 per cent of those taking the exam since 1970 failed. Connecticut, which requires seven years experience before an individual is eligible to appear for the master's exam, had 87.7 per cent fail over the same period (see Tables 14 and 15)! It should be noted that the exams in both states are based largely on the National Electrical Code. Furthermore, when interviewed, the Connecticut Executive Secretary stated that the examinees are permitted to use an open code book during the exam. He claimed the applicants "are not properly prepared -- they do not know how to study." It is simply incredible that after a minimum of seven years' experience almost 90 per cent of Connecticut's electricians are judged unqualified on the basis of an open book exam!

Correlation Analysis: A regression was run on the failure rate data for Massachusetts with national unemployment rates as the independent variable and yielded the following statistical results:

Failure rates on Electricians' exams in Massachusetts vs National Unemployment Rates for 58 years (1915-16 through 1972-73):

$R^2 = 0.1461$
t-statistic = 3.09536

The t-statistic indicates significance at the 1 per cent level.

The statistical results support the hypothesis that failure rates on licensure exams tend to fluctuate with the level of unemployment.

TABLE 14

ELECTRICIANS (RHODE ISLAND)

	Masters			Journeymen		
Year	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)
1973-74	50	22	44.0	251	153	61.0
1972-73	101	32	31.7	233	127	54.5
1971-72	93	33	35.5	283	166	58.7
1970-71	57	29	50.9	258	142	55.0
1969-70	96	37	38.5	307	105	34.2

Source: Data provided by the Rhode Island State Board of Examiners of Electricians.

TABLE 15

ELECTRICIANS (CONNECTICUT)

	Masters			Journeymen		
Year	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)
1974	142	127	89.4	306	118	38.6
1973	154	138	89.6	319	140	43.9
1972	148	127	85.8	460	151	32.8
1971	107	89	83.2	454	173	38.1
1970	117	105	89.7	390	167	42.8

Source: Data provided by the Executive Secretary of the Connecticut State Board of Examiners of Electricians.

TABLE 16

ELECTRICIANS (MASSACHUSETTS)

Year	Examined	Failed	Failed (%)
1972-73	2072	1029	49.7
1971-72	1778	783	44.0
1970-71	1409	409	40.9
1969-70	1426	435	43.9
1968-69	1187	325	27.3
1967-68	1084	276	25.5
1966-67	1006	288	28.6
1965-66	966	288	29.8
1964-65	910	284	31.2
1963-64	923	327	35.4
1962-63	1017	362	35.6
1961-62	980	371	37.9
1960-61	1031	369	35.8
1959-60	1221	508	41.6
1958-59	1081	525	48.6
1957-58	951	359	37.7
1956-57	1126	447	39.7
1955-56	1011	459	45.4
1954-55	1070	665	62.1
1953-54	1419	939	66.2
1952-53	1539	1015	66.0
1951-52	1598	1086	68.0
1950-51	1785	1199	67.2
1949-50	2172	1556	71.6
1948-49	2226	1691	76.0
1947-48	2191	1602	73.0
1946-47	3079	1905	61.9
1945-46	2334	1495	64.1
1944-45	944	661	70.0
1943-44	752	504	67.0
1942-43	474	283	59.7
1941-42	765	530	69.3
1940-41	896	727	81.1
1939-40	843	723	85.8

TABLE 16 (Continued)

Year	Examined	Failed	Failed (%)
1938-39	760	653	85.9
1937-38	805	700	86.9
1936-37	850	718	84.5
1935-36	711	607	85.4
1934-35	683	488	71.4
1933-34	716	491	68.6
1932-33	719	483	67.2
1931-32	1001	671	67.0
1930-31	1158	871	75.2
1929-30	1222	863	70.6
1928-29	1279	930	72.7
1927-28	1220	1006	82.5
1926-27	1247	944	75.7
1925-26	1559	960	61.6
1924-25	1556	1045	67.2
1923-24	1781	1202	67.5
1922-23	1713	1084	63.3
1921-22	1467	787	53.6
1920-21	1917	1256	65.6
1919-20	1936	1214	62.7
1918-19	1483	880	59.3
1917-18	796	480	60.3
1916-17	1108	470	42.4
1915-16	1086	341	31.4

Source: *Annual Report*, State Examiners of Electricians.

FOOTNOTES

1. *Massachusetts Electrical Contractors Association, Inc., vs State Examiners of Electricians*, Middlesex, Mass., Superior Court, No. 34362, June 19, 1973.

2. *Opinions of Attorney-General*, State Examiners of Electricians, Massachusetts, January, 1930.

3. *Rules*, State Examiners of Electricians, Section 6.1.

EMBALMERS AND FUNERAL DIRECTORS

Licensing Boards

The Rhode Island Board of Examiners in Embalming has three members. Each must have had at least five years' experience in embalming and in funeral directing and is appointed for a three-year term by the director of health with the approval of the governor.

Membership on the five-man Massachusetts Board of Registration in Embalming and Funeral Directing is for a five-year term. They are appointed by the governor and no more than three can be members of the same political party. The board selectes a chairman and a secretary from its members. The chairman is paid $2,500 a year, the secretary $1,800 and each of the other board members $1,200.

Licensing Requirements

To qualify for the embalmer exam in Rhode Island, the applicant must be over 21 years of age, a citizen of the United States, a high school graduate, and must have completed a two-year apprenticeship under a licensed embalmer. In addition he must have assisted in embalming at least fifty bodies during the two-year apprenticeship period and completed a full course of instruction in a state department of health-approved embalming school. There is a $25 application fee.

The Massachusetts requirements for embalmers are the same as those in Rhode Island except that the application fee is only $10.

Funeral director applicants in Rhode Island must have an embalmer's license and if the applicant is a corporation, partnership, association or organization, one or more of its officers or members actively engaged in the business must be the holder of an embalmer's certificate. The applicant must also furnish satisfactory proof that the place of business is or will be properly constructed with such instruments, supplies, equipment and facilities as the board deems necessary. The board has the power to inspect the premises in which the business is to be conducted. There is a $25 examination fee.

In Massachusetts the applicant must be a duly-registered embalmer and have satisfactorily completed a course of instruction of not less than nine months in a board-approved funeral directing school (or the elements of such a course in a college or university which he has attended.) There is an examination fee of $10.

Thus there is little difference in the requirements for embalmers and funeral directors in the two states except that Massachusetts requires a nine-month course of instruction for funeral directors while none is called for in Rhode Island.

License Fees

Both Rhode Island and Massachusetts have annual license renewal fees of $5 for embalmers and $10 for funeral directors.

Reciprocity

Rhode Island has no provision for reciprocity. In Massachusetts the board may, by a majority vote, enter into and rescind at any time a reciprocity agreement with the corresponding licensing authority of any other state.

Advertising and Work Restrictions

Funeral director certificates in Massachusetts are issued for "one location only" and Rhode Island permits a funeral director to have one one branch office. Rhode Island law bars cemetary operators from securing a license to engage in the business of funeral directing. These restrictions seem to be aimed at protecting funeral directors from competition while at the same time preventing possible economies which could result in lower prices to the consumer.

One of the grounds for revocation of a license in Massachusetts is "false or misleading or 'bait' advertising or using the name of an unregistered person in connection with that of any funeral establishment, or *the advertising of price in any form outside the licensed establishment* (underlining added)." The "Code of Ethics" included in the regulations of the board has as one of its provisions "The funeral director is under obligation to be fair with his competitors as to respecting contracts they have made with clients, refraining from soliciting cases directly or through agents or through the offering of free services --- and *observing the rules of competition without disparagement or defamation as to price, service, merchandise, or professional standing. This particularly applies to statements made in advertisements* (underlining added)." These passages clearly indicate a desire to avoid any kind of price competition.

The following passage is from one of the annual reports the Massachusetts board submitted to the state's Director of Registration:

> "During the year, the attention of the Board was directed to the [name of firm]. It was discovered that the [firm] was contacting Funeral Directors and soliciting advertisements and endorsement of pre-arranged funerals. The names of funeral directors appeared in the advertisements and prices

> of funerals quoted. Price advertising is in violation of Chapter 112 G. L., Section 84. In an effort to put an end to such violation, the Board conducted a hearing (at which the funeral directors and the firm involved) were present.
>
> Considerable time and effort was spent by this board in making certain that these funeral directors and the [firm] thoroughly understood that these violations must be discontinued --
>
> As a result of this hearing, much has been accomplished and it is the opinion of the Board that the [firm] and the Funeral Directors will give complete cooperation and for that reason *the profession throughout the state will be protected as intended and has been the aim of the Board with regard to law enforcement* (underlining added). (*Annual Report*, June 30, 1964.)

The underlined words and the action taken indicate that it was protection of the profession from price competition rather than protection of the consumer that concerned the Board.

Revocation or Suspension of Licenses

Grounds for revocation in the Rhode Island statute are simple but extremely broad -- "for gross incompetency, for unprofessional conduct, or for other causes deemed sufficient in the judgement" of the board.

In Massachusetts, the statute is specific and detailed with respect to licensure revocation or suspension, including such grounds as price advertising, soliciting for dead human bodies, gross immorality, the use of profane, indecent or obscene language in the presence of a dead human body and eleven other reasons.

Examinations

Prospective embalmers are required to take a licensure examination in Rhode Island, but whether a funeral director examination is required is at the discretion of the board. Examinations, given twice a year, are required for both occupations in Massachusetts.

Analysis of Failure Rates on Exams

There is a substantial difference between Rhode Island and Massachusetts in both examination requirements and in examination results for embalmers and funeral directors. Over the past ten years the failure rate in Massachusetts on embalmers' exam was 21 per cent, four times greater than the 5.4 per cent failure rate in Rhode Island (see Tables 17 and 18).

Massachusetts requires nine months of training and education in a board-approved school of funeral directing (or the equivalent in college courses) before an individual is eligible to take the licensure exam. Rhode Island has no such education requirement for funeral directors and the board can wave the examination requirement at its discretion. Yet over the past 24 years, 98 individuals were licensed as funeral directors in Rhode Island and none were failed, whereas in Massachusetts, which has considerably greater education requirements before an individual is eligible to take the exam, failure rates varied between 7.7 and 34.3 per cent.

Correlation Anaylsis: The number of individuals taking the examinations in Rhode Island in any one year were considered too small for a valid regression analysis. The following are the statistical results for embalmers and funeral directors in Massachusetts:

Failure rates on embalmers' exams in Massachusetts vs National Unemployment Rates for 33 years (1941 through 1973-4):

$R^2 = 0.0972$
t-statistic = 1.82704

The t-statistic indicates significance at the 5 per cent level.

Failure rates on funeral directors' exams in Massachusetts vs National Unemployment Rates for 33 years (1941 through 1973-74)

$R^2 = 0.0044$
t-statistic = 0.376869

The t-statistic indicates no significance at the 10 per cent level.

Although both regressions are positive, and the embalmers' regression shows significance at the five per cent level, the statistical test for funeral directors' exams did not yield significant results. In general, therefore, the data on embalmers and funeral directors do not support the hypothesis that failure rates on exams will tend to vary with the level of unemployment. It is interesting to note, however, that these are the only regressions of all those run that yielded such poor results. This may be explained by the fact that the funeral business is relatively stable. To paraphrase an old and terrible joke, people are always dying to get into the market.

TABLE 17

EMBALMERS AND FUNERAL DIRECTORS (MASSACHUSETTS)

Year	Embalmers			Funeral Directors			Embalmers and Funeral Directors Combined		
	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)
1973-74	71	21	29.6	62	8	12.9	133	29	21.8
1972-73	80	26	32.5	69	21	30.4	149	47	31.5
1971-72	61	13	21.3	51	5	9.8	112	18	16.1
1970-71	61	6	9.8	69	4	5.8	130	10	7.7
1969-70	53	9	17.0	59	11	18.6	112	20	17.9
1968-69	49	3	6.1	55	16	29.1	104	19	18.3
1967-68	71	11	15.5	61	1	1.6	132	12	9.1
1966-67	62	19	30.6	53	5	9.4	115	24	20.9
1965-66	71	17	23.9	61	16	26.2	132	33	25.0
1964-65	77	13	16.9	75	10	13.3	152	23	15.1
1963-64	66	16	24.2	58	8	13.8	124	24	19.4
1962-63	86	34	39.5	60	9	15.0	146	43	29.5
1961-62	70	34	48.6	55	8	14.5	125	42	33.6
1960-61	61	19	31.1	49	19	38.8	110	38	34.5
1959-60	69	24	34.8	65	19	29.2	134	43	32.1
1958-59	67	21	31.3	48	14	29.2	115	35	30.4
1957-58	54	8	14.8	63	15	23.8	117	23	19.7
1956-57	52	7	13.5	68	17	25.0	120	24	20.0
1955-56	42	9	21.4	55	10	18.2	97	19	19.6
1954-55	32	8	25.0	70	8	11.4	102	16	15.7
1953-54	50	11	22.0	58	26	44.8	108	37	34.3
1952-53	64	10	15.6	80	25	31.3	144	35	24.3
1951-52	92	19	20.7	77	19	24.7	169	38	22.5
1950-51	105	48	45.7	184	100	54.3	289	148	51.2
1949-50	152	73	48.0	239	83	34.7	391	156	39.9
1948-49	152	39	25.7	231	104	45.0	383	143	37.3
1947-48	87	22	25.3	213	56	26.3	300	78	26.0
1946-47	95	24	25.3	288	156	54.2	383	180	47.0
1945-46	--	--	----	121	46	38.0	---	---	----
1944-45	34	16	47.1	94	40	42.6	128	56	43.8
1943-44	23	10	43.5	62	36	58.1	85	46	54.1
1942-43	23	11	47.8	57	19	33.3	80	30	37.5
1942	77	25	32.5	87	36	41.4	164	61	37.2
1941	122	56	45.9	76	41	53.9	198	97	49.0

Source: Annual Reports of the Board of Registration in Embalming and Funeral Directing of Massachusetts.

TABLE 18

EMBALMERS AND FUNERAL DIRECTORS (RHODE ISLAND)

Year	Embalmers		Funeral Directors	
	Examined	Failed	Examined	Failed
1973-74	6	0	8	0
1972-73	8	0	9	0
1971-72	10	0	3	0
1970-71	7	0	2	0
1969-70	5	0	2	0
1968-69	5	0	5	0
1967-68	6	1	4	0
1966-67	4	0	3	0
1965-66	12	2	1	0
1964-65	12	1	8	0
1963-64	14	4	5	0
1963	11	2	-	-
1962	12	0	5	0
1961	6	0	6	0
1960	13	10	4	0
1959	6	0	8	0
1958	10	0	-	-
1957	9	0	8	0
1956	13	6	-	-
1955	13	2	4	0
1954	10	1	-	-
1953	7	0	4	0
1952	6	0	7	0
1951	9	2	2	0
1950	12	4		
1949	42	10		
1948	19	8		
1947	14	4		
1946	9	2		
1945	9	5		
1944	8	1		
1943	7	0		
1942	10	1		
1941	23	7		
1940	15	6		
1939	9	1		
1938	21	8		
1937	18	5		
1936	12	4		
1935	4	2		

Source: Annual Reports of the Division of Professional Regulation of Rhode Island.

ELECTROLOGISTS

Licensing Boards

Rhode Island's Board of Examiners in Electrolysis has two members, a physician and an electrologist, both appointed by the governor for a three-year term. Their salaries are fixed by the director of the department of health at a maximum of $100 annually.

In Connecticut the board of examiners of electrologists ("hypertrichologists" in the Connecticut law) is composed of five members, two physicians who must be diplomates of the American Board of Dermatology and three of whom must be practicing electrologists with at least five years experience. The dermatologists are nominated by the Connecticut State Medical Society and the electrologists are selected from a list of names furnished by the Connecticut State Hypertrichologist Association. The governor appoints them for a term of three years and each receives his "necessary and reasonable expenses incidental to his duties."

The Massachusetts Board of Registration of Electrologists consists of two electrologists with five years practice and one physician. The secretary of the board receives a salary of $625 and each of the other members $250, plus necessary traveling expenses. They are appointed by the governor for a term of three years.

Licensing Requirements

The Rhode Island applicant must be at least 21 years of age, a resident of the state for at least one year, a high school graduate, of good moral character, and free of infectious disease. In addition he must have served an apprenticeship under the supervision of a licensed electrologist. The apprenticeship consists of at least 400 hours of study and practice in the theory and application of electrolysis within a period of six consecutive months. There is a $50 application fee.

Connecticut applicants must be at least 18 years of age, of good moral character, certified by two reputable citizens, a United States citizen (or has filed a written declaration of intention to become a citizen) and must pay an application fee of $25. The law states that the applicant must meet the "educational and other requirements" prescribed by the board, but does not specify what those requirements are.

The Massachusetts applicant must be at least 21 years of age, of good moral character, a United States citizen (or have filed a declaration of intent), a high school graduate and must have a diploma from an electrolysis school approved by the board. Approved schools must maintain a course of study of not less than 1100 hours with 500 hours of academic study and 600 hours of practical training. The application fee is $25.

License Fees

Rhode Island and Connecticut have annual renewal fees of $5 and Massachusetts has biennial renewal fees of $30.

Reciprocity

Of the three states, only Massachusetts has a reciprocity provision. In that state, for a fee of $25, without examination, a license will be granted provided that the state in which the person is licensed has standards equal to those in Massachusetts and it extends a like courtesy to electrologists licensed in Massachusetts.

Advertising and Work Restrictions

Both Rhode Island and Massachusetts law contain specific prohibitions against the advertising of prices. In Massachusetts, a license may be suspended or revoked for "unprofessional conduct" and included in the board's guidelines for professional conduct are the following:

No electrologist shall solicit patients through the mails.

No electrologist shall advertise or allow rebatements, discounts, or other inducements of any kind in order to obtain patients or referrals.

Any advertisement or listing of an electrologist in the classified section of a telephone directory shall not exceed two and one-half inches in height and one column in width. Any advertisement or listing of an electrologist in a newspaper, a magazine, publication or handbill shall not exceed one column in width and four inches in height, or two columns in width and two inches in height.

In going over the board minutes in Massachusetts it was found that most of the complaints discussed by the board dealt with the issue of advertising. A few citations will indicate the nature of the violations:

June 10, 1964. The Attorney General was consulted and the board was advised to stipulate a size of advertising that would be agreeable to the majority of electrologists, which would thereby be considered a fair restriction.

April 19, 1964. There were two complaints, both involving the Jordan Marsh department store. One complaint concerned the fact that an advertisement referred to electrologists as "technicians." A second dealt with the fact that the store had inserted an electrolysis advertisement within a beauty advertisement.

February 16, 1967. Several phone company yellow page ad violations were noted in the current new issue of the telephone book. Although no cross-listing of electrologists under non-professional headings is allowed, the telephone company persists in continuing to list electrologists under "Hair removing." The Board agreed "to further advise the telephone company of both the illegality and unethical nature of such listings."

June 24, 1971. Again there is a reference to a yellow page ad violation.

March 29, 1972. An investigator contacted about a complaint on her newspaper ad. She had a series of five columns in a newspaper. The board reviewed the columns and advised, "It is in good taste but to make it shorter."

It is clear that the restrictions on advertising contained in the Massachusetts law and board regulations have little to do with protecting the consumer. On the contrary, the prohibition on price advertising lessens the consumer's ability to make a rational choice and tends to protect the electrologist from price competition.

The Connecticut law states that "no person shall -- maintain an office in which the practice of hypertrichology is carried on as a portion of his regular business." In Massachusetts, the General Regulations of the board state that "No other business, trade, occupation, or activity shall be conducted or maintained in any [electrolysis'] office." Under such regulations, the Massachusetts board minutes discussed such complaints as "operating electrolysis and beauty shop in the same premises," "practicing electrolysis under the same roof as a beauty parlor," and having "a manicurist operating in the waiting room of her electrolysis office." (Minutes of November 17, 1966, February 16, 1967, September 19, 1968, August 6, 1970.)

The electrologists in Massachusetts also had jurisdictional disputes with nurses. In the November 16, 1967 minutes, "The board again reaffirmed its strong feelings concerning the practice of electrolysis in State Mental Institutions, i. e., the practice of electrolysis by qualified licensed electrologists rather than nurses or other unlicensed personnel." The board wrote to the Commissioner of Mental Health "suggesting that if possible the state provide such care for patients in State Institutions." The board's Nov. 1, 1972 minutes indicated that a Registered Nurse working under the supervision of a plastic surgeon was contacted by the board and informed that she does not have a license to practice electrolysis in Massachusetts.

Analysis of Failure Rates on Examinations

The numbers involved in this occupation are too small to test the hypothesis that failure rates tend to vary with unemployment. There were only 121 electrologists in Connecticut in 1951 when a grandfather clause permitted licensing without examination. In most years for which data are available, less than ten persons took the licensing exam in each of the three states.

It is reasonable to expect failure rates to fall with increased education and training. Massachusetts requires 500 hours of academic study and 600 hours of practical training in a board-approved school, considerably more than the 400 hours of apprenticeship training required in Rhode Island. Yet in Massachusetts of 245 taking the exam, 42, or 17.1 per cent failed, while in Rhode Island, of 138 examined, only 19, or 13.8 per cent failed. The examination requirements as stated in the Connecticut law were too vague to make any valid comparison (see Table 19).

TABLE 19

ELECTROLOGISTS (RHODE ISLAND, MASSACHUSETTS AND CONNECTICUT)

	Rhode Island		Connecticut		Massachusetts	
Year	Examined	Failed	Examined	Failed	Examined	Failed
1973-74	1	0	5	0	30	0
1972-73	2	0	4	0	12	1
1971-72	2	0	-	-	13	0
1970-71	1	0	6	0	14	0
1969-70	4	2	11	4	21	0
1968-69	1	0	5	1	19	4
1967-68	2	1	6	2	6	2
1966-67	4	0	9	7	6	0
1965-66	12	3	1	0	9	0
1964-65	7	0	8	6	7	3
1963-64	7	0	11	9	29	8
1962-63	10	2	8	3	16	4
1961-62	8	0	12	6	5	2
1960-61	3	0	6	2	17	3

Note: From 1944 through 1960 Rhode Island examined 74 people and failed 11. Massachusetts in 1959-60 examined 41 and failed 15. Connecticut in 1952-53, 1953-54, 1955-56, and 1956-57 examined 26 and failed 10.

Source: Compiled from minutes of meeting of the respective boards.

REAL ESTATE BROKERS AND SALESMEN

Licensing Board

The Rhode Island Real Estate Commission consists of seven persons (at least one from each county) appointed by the governor to serve a term of five years. Three of the Commission members must be licensed brokers with at least ten years' experience. The other four are members of the general public. Each member received $25 a day while carrying out their duties, with a maximum of $800 annually. The commission is in the Department of Business Regulation and the director of that department employs a deputy director to carry out the provisions of the real estate licensing law.

The Massachusetts Board of Registration of Real Estate Brokers and Salesmen has five members, all appointed by the governor. Three must be licensed real estate brokers with at least seven years' experience while the other two are "representative of the public." The board members serve without compensation.

Licensing Requirements

Real estate brokers: Applicants in Rhode Island must obtain letters of recommendation from three citizens who are property owners, must be at least 18 years of age, and a citizen of the United States. Effective April 1, 1974, the applicant must submit proof that he has been engaged full time as a real estate salesman for one year, or that he has a baccalaureate degree with a major in real estate from an accredited college or university, or has successfully completed at least 90 hours of real estate study in a board-approved school. Prior to April 1, 1974, the applicant was not required to have been a salesman, nor was there any stipulation with respect to formal education.

In Massachusetts, the letters of reference and citizenship requirements are the same as those in Rhode Island. However, Massachusetts has no employment prerequisites, does not give any credit for education, and has a 21-year minimum age requirement.

Upon filing for the issuance of a broker's license, the applicant is required by both states to furnish a $1,000 surety bond.

Salesmen: In both states, the applicant must be 18 years of age, and the citizenship and letters of reference requirements are similar to those for brokers, with one important exception -- in Rhode Island the prospective salesman must secure a letter of recommendation from the broker whose employ the applicant desires to enter. This means that the applicant must be fairly certain of having a job before he can even apply for a license. Salesmen must provide a surety bond of $1,000 in Rhode Island (none were required prior to April 1, 1974) but are not required to do so in Massachusetts.

The examination fees in Massachusetts are $15 and $8, respectively, for brokers and salesmen. Rhode Island charges a $10 fee for each of the exams.

License Fees

The original license fee in Massachusetts varies from $15 to $25 for brokers and from $10 to $15 for salesmen "according to the applicant's month of birth." There is a biennial renewal fee of $25 for brokers and $15 for salesmen.

Prior to April 1, 1974, Rhode Island had an annual renewal fee of $15 and $10 for brokers and salesmen respectively. Thereafter, the fees were raised drastically to $50 and $30 per year, four times higher than the Massachusetts fees.

Reciprocity

Licensees from states which have a reciprocal agreement with Massachusetts are exempt from examination. Rhode Island has a similar provision and the two states have a reciprocity agreement with each other.

Work Restrictions and Price Regulation

Neither Massachusetts nor Rhode Island legislation or regulations contained provisions that attempted to regulate price or impose work restrictions beyond those implicit in the licensing process itself.

Examinations

Both states require an examination to show the applicant's knowledge of reading, writing, spelling, elementary arithmetic common to real estate transactions, and, in general, the statutes relating to real property, deeds, mortgages, leases, contracts and agency. Exams are given 52 times a year in Rhode Island. Prior to 1974 Massachusetts gave both the brokers' and the salesmen's exams 24 times a year; in mid-1974, the number of brokers' exams was reduced to eight and salesmen's exams to four.

Analysis of Failure Rates on Licensure Exams

Since the data on failure rates for both Rhode Island and Massachusetts span only a ten-year period, they are not adequate for a valid regression analysis. Nevertheless, as will be evident from the following discussion, the data are helpful in demonstrating the substantial power possessed by a licensing board and the effectiveness with which that power can be used to restrict supply.

Beginning in 1971, in both states, there developed a serious movement to raise the eligibility requirements for broker's licenses. The discussion stimulated a pronounced increase in the numbers taking the exam -- from 5,804 in 1970-71 to 11,805 in 1973-74 in Massachusetts and from 343 to 1,828 in Rhode Island (see Tables 20 and 21).

In 1974, according to the Chief Examiner of the Massachusetts Real Estate Board, a bitter controversy ensued when the Board sharply reduced the number of exams from 24 to 8 for brokers, from 24 to 4 for salesmen, and drastically limited the number of applicants to be admitted to any one exam (see the following page for a copy of the Real Estate Board's announcement of the cutbacks).

The controversy flared in the press and a president of a real estate school charged the board with illegally trying to limit the number of people who can take the exam in anticipation of legislation for more stringent qualifications. The executive director of the Massachusetts Real Estate Boards admitted his organization was lobbying for more stringent laws to qualify brokers (The Boston Globe, June 12, 1974). The interest of the

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727-3060

The Commonwealth of Massachusetts
Department of Civil Service and Registration
Board of Registration of Real Estate
Brokers and Salesmen
Leverett Saltonstall Building, Government Center
100 Cambridge Street, Boston 02202

January 10, 1975

Your application for Real Estate Broker examination is being returned to you. This application and examinations were discontinued as of July 1, 1974. The Board revised its policies and procedures for 1975.

There will be 8 examinations for Salesman and 4 examinations for Broker, and limited as to the number to be examined. Press releases and information has been disseminated by this office as to decisions made by the Board.

A limited supply of new applications were made available for Salesman on December 1, 1974, and a limited supply of new broker applications were made available on January 2, 1975.

Applications for Broker have been exhausted for 1975. A supply of Salesman applications are still on hand if you are interested.

The policies and procedures outlined above may be changed at the discretion of the Board.

Truly yours,

Peter A. Tardo
Chief Examiner

TABLE 20

REAL ESTATE BROKERS AND SALESMEN (MASSACHUSETTS)

Years	Brokers Examined	Brokers Failed	Brokers Failed (%)	Salesmen Examined	Salesmen Failed	Salesmen Failed (%)
1974-75	1,137	906	79.7	438	188	42.9
1973-74	11,805	5,255	44.5	3,542	1,514	42.7
1972-73	12,258	7,478	61.0	4,336	2,381	54.9
1971-72	8,151	3,145	38.6	2,958	660	22.3
1970-71	5,804	2,705	46.6	2,392	963	40.3
1969-70	6.229	1,764	28.3	1,528	266	17.4
1968-69	7,411	2,376	32.1	1.517	455	30.0
1967-68	5,378	1,735	32.3	1,191	301	25.3
1966-67	5,158	1,719	30.0	1,092	386	35.3
1965-66	--	--	--	--	--	--
1964-65	8,785	2,614	29.8	1,793	693	38.7

Source. For 1964-65 through 1973-74 the Annual Reports of the Massachusetts Board of Registration of Real Estate Brokers and Salesmen. The 1974-75 data were supplied by the Chief Examiner of the Board.

TABLE 21

REAL ESTATE BROKERS AND SALESMEN (RHODE ISLAND)

	Brokers			Salesmen		
Years	Examined	Failed	Failed (%)	Examined	Failed	Failed (%)
1973-74	1,828	480	26.3	451	95	21.1
1972-73	1,049	303	28.9	436	86	19.7
1971-72	836	259	30.9	371	78	21.0
1970-71	343	108	31.5	354	90	25.4
1969-70	275	110	40.0	219	54	24.7
1968-69	275	115	41.8	252	63	25.0
1967-68	262	108	41.2	205	65	31.7
1966-67	276	124	44.9	171	57	33.3
1965-66	427	161	37.7	166	49	29.5
1964-65	340	104	30.6	232	36	15.5

Source: Rhode Island Real Estate Board.

real estate organization in more stringent laws undoubtedly reflected a desire to restrict the supply; nationally, in 1972 there was one licensed broker for every 434 persons whereas in Massachusetts the ratio was one for every 96 persons (see Table 22).

The impact of the Real Estate board's decision is dramatically reflected in the decline in the number examined for the broker's license, from 11,805 in 1973-74 to 1,137 in 1974-75. Furthermore the failure rate rose sharply from 44.5 per cent to 79.7 per cent (see Table 20). The highest failure rate for any of the fifty states in 1973 was 70 per cent. When the Chief Examiner was interviewed as part of this project, he commented as follows on those developments: "The Board wanted to tighten up. There were too many in the field. They gave a much tougher exam."

National Data: National data indicate that there are considerable variations in failure rates among the various states, and therefore substantial differentials in requirements. On brokers' exams in 1972, 20 states reported failure rates of less than 30 per cent, 19 states failure rates between 31 and 50 per cent, and 11 states failure rates over 50 per cent; the range was from 7 to 70 per cent. On salesmen's exams, there were 19 states with failure rates below 30 per cent, 25 with failure rates between 31 and 50 per cent, and 6 with failure rates above 50 per cent; the range was from 1 to 69 per cent (see Table 23).

TABLE 22

NATIONAL ASSOCIATION OF REAL ESTATE LICENSE LA
Building
PITTSBURGH, PENNSYLVANIA

1972-1973 SUMMARY ON LICENSE LAW STATISTICS

STATE	BROKERS LICENSED		SALESMEN LICENSED		BROKER EXAMINATIONS 1973				SALESMEN EXAMINATIONS			
	1972	1973	1972	1973	Broker Applicants	Broker Examinees	Passed--- %	Failed--- %	Salesmen Applicants	Salesmen Examinees	Passed--- %	Failed--- %
ALABAMA	4,838	4,700	3,876	4,000	636	583	312---54	271---46	1,636	1,463	966---66	497---34
ALASKA	228	338	670	822	151	112	34---30	78---70	1,007	794	383---48	411---52
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
ARIZONA	5,938	6,626	16,790	14,004	755	685	482---70	203---30	6,494	5,484	4,029---73	1,455---27
ARKANSAS	2,853	3,156	3,709	3,562	1,560	1,560	681---42	879---58	1,972	1,972	1,223---62	749---38
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
CALIFORNIA	69,937	73,182	131,995	146,864	10,204	8,923	4,222---47	4,701---53	56,152	49,881	24,084---48	25,797---52
COLORADO	4,733	5,529	17,054	19,548	1,794	1,880	815---43	1,065---57	8,311	8,563	4,876---57	3,687---43
CONNECTICUT	16,807	19,794	5,197	5,583	8,116	8,096	6,014---74	2,082---26	3,084	3,064	2,233---73	831---27
DELAWARE	601	633	1,168	1,432	105	115	105---90	10---10	601	663	601---90	62---10
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
FLORIDA	21,791	27,990	35,701	53,352	3,866	3,396	2,637---78	759---22	22,820	21,089	16,914---80	4,175---20
GEORGIA	4,000	5,160	17,000	21,650	1,356	1,262	607---48	655---52	11,126	10,680	5,767---54	4,913---46
HAWAII	1,907	2,735	4,230	7,370	463	431	312---72	119---28	4,722	4,639	3,211---74	1,428---26
IDAHO	1,090	850	2,314	2,903	160	110	102---93	8--- 7	820	813	593---72	220---28
ILLINOIS	25,952	26,000	35,796	37,000	6,000	5,000	2,650---53	2,350---47	19,000	16,500	9,140---56	7,360---44
INDIANA	13,046	16,301	10,196	12,446	1,788	1,788	854---48	934---52	2,821	2,821	2,269---80	552---20
IOWA	5,807	5,010	4,171	3,563	572	572	338---59	234---41	1,803	1,803	1,379---76	424---34
KANSAS	5,641	4,576	4,344	7,341	397	340	199---58	141---42	2,824	2,408	1,644---68	764---32
KENTUCKY	4,673	4,753	4,487	5,498	510	466	215---46	251---54	2,798	2,493	1,525---61	968---39
LOUISIANA	3,796	3,436	11,362	10,463	445	445	368---83	77---17	3,818	3,818	2,772---73	1,046---27
MAINE	3,996	4,665	723	872	1,212	1,212	699---58	513---42	701	701	315---45	385---55
MARYLAND	4,865	4,484	13,559	14,991	336	325	273---84	52---16	6,341	6,067	4,977---82	1,090---18
MASSACHUSETTS	60,000	54,926	15,000	9,393	11,059	11,059	6,264---53	4,795---47	3,549	3,549	2,166---60	1,383---40
MICHIGAN	11,915	12,581	34,952	37,333	3,779	1,814	905---50	909---50	1,953	13,545	7,563---56	5,982---44
MINNESOTA	6,939	4,500	10,930	8,720	707	572	411---72	161---28	5,161	4,486	3,063---68	1,423---32
MISSISSIPPI	1,850	2,059	1,875	2,156	233	233	228---97	5--- 3	711	711	706---99	5--- 1
MISSOURI	13,601	15,408	20,315	22,800	2,790	2,364	1,734---73	630---27	4,785	3,722	2,662---72	1,060---28
MONTANA	1,200	1,216	750	1,026	220	220	101---45	119---55	952	952	479---50	473---50
NEBRASKA	4,133	4,413	3,558	4,842	613	613	352---57	261---43	2,564	2,564	1,308---51	1,256---49
NEVADA	1,218	1,372	1,913	2,427	3,116	1,255	437---35	818---65	1,257	1,166	500---43	666---57
NEW HAMPSHIRE	8,132	6,287	2,146	3,011	568	568	470---81	98---19	1,844	1,844	1,279---69	565---31
NEW JERSEY	10,801	14,754	27,816	37,578	866	866	551---64	315---36	7,749	7,749	5,843---75	1,906---25
NEW MEXICO	1,552	1,812	2,642	3,147	344	407	250---72	157---28	1.637	1,574	1,121---70	453---30
NEW YORK	28,060	34,250	69,940	88,375	2,339	2,339	1,676---72	663---28	31,739	31,739	22,086---70	9,653---30
NORTH CAROLINA	11,809	16,035	3,211	3,893	7,968	7,010	4,478---64	2,532---36	3,118	2,253	1,462---65	791---35
NORTH DAKOTA	738	666	540	606	82	74	43---58	31---42	258	231	128---55	103---45
OHIO	11,444	10,204	41,032	46,299	883	552	393---73	159---27	12,322	11,462	7,722---67	3,740---33
OKLAHOMA	8,234	8,950	6,121	8,918	1,048	999	763---76	236---24	4,673	4,254	3,094---73	1,160---27
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
OREGON	2,310	4,671	9,000	10,544	1,212	1,142	672---59	470---41	5,843	5,031	2,336---46	2,695---54
PENNSYLVANIA	12,045	12,550	30,971	39,479	873	873	505---58	368---42	13,407	13,407	8,708---65	4,699---35
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
RHODE ISLAND	3,702	4,452	1,046	1,198	1,250	1,101	790---72	311---28	510	433	357---82	76---18
SOUTH CAROLINA	2,946	3,763	3,558	4,902	365	365	212---58	153---42	4,133	3,628	2,677---74	951---26
SOUTH DAKOTA	1,443	1,347	588	769	111	74	57---77	17---23	389	366	256---70	110---30
TENNESSEE	6,891	7,180	9,467	11,009	1,600	1,200	660---55	540---45	4,800	4,600	2,760---60	1,840---40
TEXAS	28,115	31,079	42,128	50,734	3,952	4,374	2,858---65	1,516---35	21,855	22,288	14,923---67	7,365---33
UTAH	830	1,034	3,736	5,314	327	275	160---58	115---42	3,802	2,662	1,720---65	942---35
VERMONT	2,435	2,376	641	875	191	169	120---71	49---29	873	714	420---59	294---41
VIRGINIA	5,000	5,920	12,000	16,850	1,095	946	548---58	398---42	10,793	8,993	4,564---51	4,429---49
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
WASHINGTON	5,450	5,500	9,464	9,500	175	168	94---56	74---44	8,048	5,707	3,135---55	2,572---45
WEST VIRGINIA	927	925	1,924	2,199	95	80	70---87.5	10---12.5	650	577	467---81	110---19
WISCONSIN	11,239	13,007	5,854	6,484	3,793	3,365	1,422---42	1,943---58	1,395	1,234	379---31	855---69
WYOMING	408	614	436	754	124	107	53---49.5	54---50.5	370	310	161---51.9	149---48.1
TOTALS	479,820	507,563	726,242	851,991	93,868	83,637	49,939---59.7	33,698---40.3	333,61[illegible]	325,786	206,536---63.4	119,250---36.6

NATIONAL AVERAGE --	1972 Brokers	1972 Salesmen	1973 Brokers	1973 Salesmen
	62% Passed	64% Passed	59.7% Passed	63.4% Passed
	38% Failed	36% Failed	40.3% Failed	36.6% Failed

1. Includes brokers

TABLE 23

DISTRIBUTION OF STATES BY FAILURE RATES ON REAL ESTATE BROKERS AND SALESMEN EXAMS, 1973

Failure Rate (%)	Number of States	
	Brokers Exam	Salesmen Exam
0 - 10	3	2
11 - 20	4	5
21 - 30	13	12
31 - 40	3	14
41-- 50	16	11
51 - 60	9	5
61 - 70	2	1

Source: Based on data in Table 22.

DENTAL HYGIENISTS (RHODE ISLAND AND CONNECTICUT)
AND
PHYSICAL THERAPISTS (RHODE ISLAND AND MASSACHUSETTS)

The licensing of dental hygienists and physical therapists was not examined in any detail as part of this project. However, a few observations can be made which may be of some significance.

In Rhode Island and Connecticut dental hygienists do not have independent boards; in both states dental hygienists are under the authority of the dental boards. Physical therapists in Massachusetts are governed by the Board of Registration in Medicine and in Rhode Island there is a three-man board, one physician and two physical therapists, appointed by the director of health.

Both occupations are in severely short supply and both are tested for licensure by national and/or regional examinations which are not controlled by the individual boards of the various states included in this study. As a result there are reasonably objective standards and no attempt has been made to restrict entrance to protect those already licensed. In Massachusetts, for example, the passing score on the physical therapist exam is one-and-one-half standard deviations below the national average of raw scores

Of 1,136 taking the national exam for physical therapists in Massachusetts since 1962, 114, or 10 per cent failed.[1] There was no relationship between failure rates and the level of unemployment. Since 1963 in Rhode Island, of 71 taking the exam, 8, or about 11 per cent failed, and 70 were licensed by endorsement.[2]

With respect to dental hygienists, of 241 taking the exam in Rhode Island since 1935, only 3 failed -- none since 1948 -- and 266 were licensed by endorsement and 7 by reciprocity since 1955.[3] In Connecticut, of 1,005 taking the exam since 1960, only 7 have failed to pass.[4]

The extraordinarily low failure rates on the exams for these occupations, the lack of any correlation of failure rates with the general level of unemployment, and the substantial use of licensure by endorsement, probably result from the fact that these occupations are in short supply. Two other variables may be influential: (1) the exams for licensure are national and/or regional exams over which the state boards have no control, and (2) three of the four boards governing the licensing of the occupation have no representation from the occupation licensed. It must be emphasized that these observations are merely conjectural since no detailed investigation was attempted.

FOOTNOTES

1. Data calculated from records of the Massachusetts Board of Registration in Medicine.

2. Data calculated from Annual Reports of the Rhode Island Division of Professional Regulation.

3. *Ibid*.

4. Data from the records of the Connecticut Dental Commission.

OPTICIANS

The Licensing Boards

The Rhode Island legislation providing for the licensure of opticians delegated authority over that profession to the Board of Examiners in Optometry. The Optometry Board established an Advisory Committee for Opticianry. In essence, the Advisory Committee is a sub-board under the Optometry Board and its members are appointed for a three-year term by the Director of Health with the approval of the governor. In an interview with the chairman of the optometry board he stated that the members of the optician's board are selected from a list submitted by the opticians' association.

The Massachusetts' Board of Registration of Dispensing Opticians is composed of five members, four of whom are required to be dispensing opticians who have been so employed for at least ten years. All are appointed by the governor, serve a five-year term, and are paid $100 annually, except for the secretary who received $300.

Connecticut's Commission of Opticians consists of five members, all licensed opticians with at least ten years of practical experience in the state, three of whom must be owners of optical establishments or offices. The commissioners are appointed by the governor from a list submitted by the Connecticut Opticians' Association.

Licensing Requirements

Rhode Island's opticianry legislation, passed in 1936, was an amendment to the optometric legislation enacted in 1909. The amendment provided that, to quality for an examination in opticianry. the applicant must be over 21 years of age, of good moral character, must have had a preliminary education satisfactory to the board, and shall have served an apprenticeship of not less than one year under a duly registered optometrist or optician. In 1973 the Optometric Board and the Opticianry Advisory Committee adopted regulations, effective January 31, 1974, raising the apprenticeship requirement from one year to three years or, alternatively, two years of training in a school approved by the Board plus a one year apprenticeship. The increase in apprenticeship requirements, according to the optometry board chairman, was in response to a questionnaire sent to the state's opticians. The examination fee is $15.

Massachusetts requires at least three years of apprenticeship under a licensed dispensing optician, a registered physician or optometrist, or completion of one year of a regular day course or eighteen months of a regular night course. The course requirement must not be less than 600 hours in a board-approved school or college. The applicant must be a citizen, at least 21 years of age, and must pay an examination of $25.

Connecticut requires licenses for several classes of opticians: a "licensed optician," a "mechanical optician," an assistant licensed optician," and an "assistant mechanical optician." The law defines a "licensed optician" as "One having a knowledge of optics and skilled in the technique of producing and reproducing ophthalmic lenses and kindred products and mounting the same to supporting materials and the fitting of the same to the eyes." The mechanical optician does everything that the licensed optician does except the fitting of the glasses.

To qualify for the "assistant licensed optician" exam, the applicant must have had not less than three years' practical experience assisting a licensed optician and the "assistant mechanical optician" must have three years' practical experience assisting a licensed mechanical optician, or the equivalent thereof, to qualify for the exam.

To take the qualifying exam for a "licensed mechanical optician," the applicant must be at least 18 years of age, a citizen of the United States, or legally declared his intention to become one, of good moral character and free of communicable disease. He must have served as a registered apprentice for not less than four years full-time employment under the supervision of a licensed optician or a licensed mechanical optician.

To qualify for the "licensed optician" exam, the applicant must have the qualifications of a mechanical optician and have had five years experience under the supervision of a licensed optician.

Thus, while in Rhode Island and Massachusetts it takes a three-year apprenticeship to become a licensed optician (or alternatively, for Massachusetts, a year of schooling), in Connecticut it takes a full five years! Furthermore, Connecticut has an elaborately structured system of license classes with rather fine distinctions among the classes and examinations for each class, provisions that accomplish no useful social purpose but which probably tend to hamper upward mobility.

License Fees

The initial application fee for an examination in Rhode Island is thirty dollars. The annual license fee for opticians is $5 in Rhode Island and $5 in Massachusetts. In Connecticut the initial fee is $50 for a licensed optician and $30 for the annual renewal; the corresponding figures for mechanical opticians are $40 and $20 and for assistant licensed opticians and assistant mechanical opticians $20 and $20.

Reciprocity

Neither Rhode Island or Connecticut has a reciprocity provision. Massachusetts provides that an optician licensed in another state may be licensed in Massachusetts without examination and upon payment of a $25 fee, provided that, in the opinion of the board, the requirements for licensure in the other state are similar to those in Massachusetts and the other state accords similar privileges to holders of Massachusetts' licenses.

Advertising and Work Restrictions

The Rhode Island statute prohibits the following:

A. Any written or spoken words or statements:

> (1) Tending to deceive or mislead the public or claiming superiority or the performance of services in a superior manner; or
>
> (2) Which constitute promises, offers, inducements, representations, guarantees or rewards and/or tend to influence, solicit, bait, persuade, entice or induce persons to seek, employ or patronize his business, services or products;

B. Definite fixed prices of frames, mountings or lenses or combinations of frames and lenses, or combinations of mountings and lenses.

In an interview with the chairman of the optometry board (of which the opticianry board is a sub-board), he pointed out that the restriction on advertising was "effective in driving department stores out of the field -- it was unprofitable because they could not advertise." He believed "that is why there is so little commercial practice in Rhode Island." In the entire state there are no department stores which have optical departments!

The grounds for revocation of an optician's license in Connecticut are so detailed and so comprehensive that they are worth repeating in full for what they suggest about the restrictive nature of the licensing law. Section 20-141-23 of the board's regulations reads as follows:

> Causes for refusal, suspension or revocation of license or permit. The commission after notice and hearing, as provided in chapter 381 of the general statutes may revoke, suspend or refuse to issue any optical license to practice, optical license selling permit, optical license processing permit or optical retail vendor permit for cause; which shall include any of the following: (1) Fraud in procuring a permit or license; (2) fraudulent, dishonest or illegal conduct of such permitee or licensee; (3) conviction of publication or circulation of any fraudulent or misleading statement in connection with the operation of

such business; (4) aiding or abetting any optical licensee or permittee whose license or permit has been suspended or revoked or has been refused issuance; (5) the use of untruthful or improbable statements in advertising or elsewhere; (6) failure to pay the annual fee; (7) fraud in representation as to the aid afforded by the use of optical glasses and kindred products; (8) any misrepresentation or untruthful statement in the sale or attempted sale of optical glasses and kindred products; and in the relative values of self-fitting of glasses, as against the fitting of optical glasses from given formulas; (9) repeated violations of the Laws of the state of Connecticut regarding public health or the rules of the department of health of the particular community where such permittee is located; (10) employment or attempted use of a permit at a location other than the address designated in the permit; (11) false representation of optical goods or optical glasses or kindred products sold, dispensed or supplied; (12) misrepresentation to the public that the holding of an optical retail vendor permit certified any skill in the permitee; or the making of any statement which might be misconstrued by the public so that the public might be led into believing that the holder of an optical retail vendor permit is of equal skill to that of the holder of an optical license permit or an optician's license; (13) having a contagious or infectious disease; (14) conducting a store, office, shop or department in cojunction with or as a combination of a wholesale optical distributer in any manner that by its operation, representation or subterfuge may mislead the public or the individual consumer to believe that retailing costs are eliminated and that they are buying at prices equivalent to wholesale prices for resale; or the use of unfair methods of competition and unjustified price discrimination by selling or representing oneself as a wholesaler or as a manufacturer, in a retail optical establishment; (15) making any statement or representation in any advertising printed or by radio or making any statement or representation in any manner or form (A) which has the capacity or tendency to deceive or mislead the consumer, or which includes generalizations and implications which so deceive or mislead; (B) which attacks competitors or which reflects unfairly on a competitor's products, services or methods of doing business; (C) which lays claim to a policy or continuing practice of generally under-selling competitors; (D) which is a "bait" offer wherein the customer does not have a fair opportunity to buy the advertised article; (E) which refers to cut prices or trade merchandise or other goods in such a manner as to mislead the public to believe that all of the merchandise sold by the advertiser is similarly low priced, when such is not the fact; (F) which makes untruthful or improbable statements; (G) which does not

> accurately describe, as to the materials and the types of lenses offered, the frames and/or the lenses advertised for sale; (H) which advertises the sale of any optical merchandise for stated prices without also stating in equally prominent manner the detailed quality, grade and special characteristics of such merchandise and prices; (I) which takes unfair advantage of public preference by deception, misrepresentation or concealment of the origin of the goods sold; (J) which represents inferior goods to be goods of standard quality reduced in price without foundation in fact; (K) which fails to advertise specifically and clearly as to whether or not only frames or other supporting devices are offered for the advertised prices; (16) offering to grant or engaging in the practice of directly, indirectly, secretly or in any manner whatsoever giving rebates or kickbacks to the prescriber or supplier or any of their agents, on the selling, dispensing or supplying of optical glasses or kindred products; (17) violation of any of the provisions of the statutes governing opticians, or the use of any subterfuge to frustrate the spirit and intent of the statutes governing opticians, or of any of the regulations thereunder.

Items 5, 12, 14 and 15 deal with the regulation of advertising in a manner so broad, and in language so vague -- "improbable statements," "may mislead the public," "unfair methods of competition," "tendency to deceive or mislead," "which reflects unfairly on a competitor's product," "which does not accurately describe," "which takes unfair advantage," "which represents inferior goods to be goods of standard quality" -- that they make virtually any advertising subject to be held a violation of the law.

In going over the minutes of the meeting of the Connecticut opticians' board, a number of references were found to complaints of advertising violations, but the complaints did not come from consumers. Two of the complaints, for example, were against opticians' groups which were advertising discounts in news media to state employees. The board informed the violators that "the advertising of specific discounts in news media and trade journals is contrary to Regulation 20-141-23." (Minutes of December 7, 1972) Thus regulations supposedly drawn to protect the consumer against false or misleading advertising were used to restrict competition and prevent a reduction in price to the consumer.

The Connecticut licensing law for opticians is extraordinarily lengthy, detailed and complete-- more than ten pages as compared with only five in Massachusetts and little more than two in Rhode Island. Furthermore, the regulations established by the Connecticut board under the law are even lengthier and more complex and detailed than the law itself. Most important of all, the Connecticut laws and regulations are clearly aimed primarily at making work for opticians and protecting them from the competition of the marketplace. This is reflected in the nature of numerous complaints cited in the minutes of the board meetings. Following are a few illustrations from those minutes:

1. A letter was received by the board from the Connecticut Opticians' Association concerning operations in the optical field by a Philadelphia concern. The board voted to notify the firm to "discontinue the sale of optical goods in the state of Connecticut." (Minutes of November 29, 1961)

2. A letter was received from an optical firm concerning violations of the optical laws of Connecticut by a dealer in hearing aids. The board unanimously agreed to send a letter to the hearing aid firm to "cease and desist in the fitting of hearing aids to customer's own glasses." (Minutes of January 30, 1962)

3. The board directed that a letter be sent to all importers of foreign sun glasses, informing them that effective January 1, 1963 "all sun glasses must be inspected each year, and the label should show the license number of the licensed optician in Connecticut who inspected the glasses, as well as the date inspected." (Minutes of October 16, 1962)

4. The board voted that a written request be made to the office of the Attorney General "for the advice of that office as to how the importation of all sun glasses into Connecticut, both domestic and foreign, may be controlled by the Commission." (Minutes of January 17, 1964)

5. "A very thorough and comprehensive discussion of the phrase 'filling prescriptions for optical glasses' ensued and it was the opinion of the attorneys (for the board) that it should be interpreted to mean that while opthalmologists may fill their own prescriptions, they cannot fill prescriptions written by another opthalmologist." (Minutes of July 13, 1965)

6. The board voted to send letters to two firms reported by the inspector to be displaying sun glasses without a certifying label. (Minutes of October 19, 1965)

7. The board voted to send a letter to a doctor that "under no circumstances can nurses adjust or fit safety glasses." (Minutes of October 19, 1965)

8. The board voted "to keep close observance of all sun glass advertisements in local newspapers such as that recently appearing for Sunkist Oranges in which 'His and Hers' sun glasses were offered at two pairs for $1.00 and to notify these newspapers that mail orders of this type are contrary to Connecticut laws." (Minutes of October 25, 1966)

9. The board voted to contact the Attorney General with respect to two physicians who were employing the services of a mechanical optician. They were in violation of the law because they did not have "proper optical permits while employing a mechanical optician." (Minutes of June 16, 1970)

10. A letter was received from a licensed optician athat a layman is performing optician's work for a physician in violation of Section 20-162. As a result of a conference "he will stop doing it (grinding lenses)." (Minutes of October 29, 1974)

All of the above were in response to complaints from members of the profession. The board's action in each case was clearly aimed at protecting the profession from competition rather than protecting the consumer. Their general effect would be to tend to raise prices to the consumer.

Analysis of Failure Rates on Examinations

The number taking the examinations for opticians in each year was so small that a valid regression analysis could not be undertaken. However, the overall failure rates for the data available do raise some serious questions about the apprenticeship and examination process.

In Rhode Island, of 147 taking the exam, 64, or about 44 per cent, failed. Rhode Island required a one-year apprenticeship and its failure rate was about eight times greater than in Massachusetts where the apprenticeship requirement was three years, but only about twice as great as the failure in Connecticut which has an apprenticeship of five years (see Table 24).

For the years for which data were available, about the same number took the examination in Massachusetts (341) as in Connecticut (339). Yet in Connecticut, which has a five-year apprenticeship requirement, the failure rate was twenty per cent while in Massachusetts, which has a three-year apprenticeship, only five per cent failed. Thus despite the fact that those taking the exam in Connecticut were required to have two more years of training than the Massachusetts candidates, the failure rate in Connecticut was four times greater! Were the exams in Connecticut too difficult? In Massachusetts too easy? Some combination of both? Is the length of apprenticeship beyond a certain point irrelevant for acquiring the necessary skill? The answers to these questions would require a more intensive study than was possible in this project. However, whatever the answers, one thing is patently clear -- the standards for licensure are far from uniform. It is considerably more difficult to obtain an optician's license in Connecticut than in Massachusetts.

TABLE 24

OPTICIANS (RHODE ISLAND, MASSACHUSETTS & CONNECTICUT)

YEAR	RHODE ISLAND		MASSACHUSETTS		CONNECTICUT	
	EXAMINED	FAILED	EXAMINED	FAILED	EXAMINED	FAILED
1973	36	17	--	--	24	7
1972	7	5	--	--	30	6
1971	8	3	61	2	22	4
1970	1	0	45	2	17	4
1969	4	1	45	0	27	2
1968	10	6	35	0	19	4
1967	3	2	26	0	--	--
1966	3	0	9	0	14	4
1965	1	0	24	0	18	2
1964	3	3	22	3	3	1
1963	1	0	16	1	7	1
1962	1	0	15	0	15	3
1961	0	0	8	0	11	2
1960	0	0	9	1	20	10
1959	1	1	9	3	--	--
1958	1	1	10	5	13	1
1957	1	1	7	0	28	1
1956	2	1	--	--	--	--
1955	2	1	--	--	--	--
1954	4	2	--	--	--	--
1953	3	1	--	--	23	2
1952	5	5	--	--	5	1
1951	7	4	--	--	12	3
1950	3	1	--	--	--	--
1949	5	2	--	--	14	1
1948	4	1	--	--	10	8
1947	2	0	--	--	7	4
1946	7	0	--	--	--	--
1945	4	0	--	--	--	--
1944	4	3	--	--	--	--
1943	1	0	--	--	--	--
1942	3	0	--	--	--	--
1941	2	2	--	--	--	--
1940	2	0	--	--	--	--
1939	--	--	--	--	--	--
1938	6	1	--	--	--	--
Total	147	64	341	17	339	71

Source: For Rhode Island, the Annual Reports of the Division of Professional Regulation. For Massachusetts and Connecticut, the minutes of the Boards of Opticians in the respective states.

PART II

ORIGINS OF LICENSING LEGISLATION

ORIGINS OF LICENSING LEGISLATION

One of the goals of this project was to study the origins of licensing legislation in three states -- to analyze the role played by members of the occupation or their representatives, the role played by consumers of the services provided by the licensed occupations, and the economic conditions giving rise to the legislation. It was expected that a historical approach would give some insight into whether the primary goal of the legislation was to protect the consumer by maintaining standards for the quality of the work performed, or whether the legislation resulted from a desire on the part of members of the occupation to protect themselves from competition.

Unfortunately, for the most part, the historical records on legislation in the three states studied are deplorable. None of the three have any records of legislative debates and the number of legislative committee reports available is also sparse. Except in a few instances, the House and Senate documents in the three states made no reference to who supported the legislation.

After an exhaustive search among government documents and the daily press and interviews with licensing board officials, some evidence was obtained for eight of the licensing laws:

Barbers, Rhode Island: The Providence Journal reported on March 13, 1903 that there were petitions filed in the Rhode Island House of Representatives by the Federation of Labor asking for passage of a barber licensing law and that the barbers' union and many other unions with their representatives were urging its adoption. The legislator who sponsored the bill said that nearly every barber in the city of Providence favored passage of the bill. "I hope," he said, "every member will put himself on record as a friend of organized labor," and attacked another representative with the statement that "--when any bill helping organized labor is introduced here you try to sidetrack it with amendments." He also stated the bill had been submitted to and approved by the unions, and that "These men number many thousands and it seems to me the act should be passed." The next day the bill was passed by a 62 to 4 vote.[1]

Barbers, Massachusetts: In 1929, the Massachusetts legislature authorized "--the department of public health -- to investigate the need, as a health measure, for establishing a board of registration of barbers or otherwise regulating the practice of barbering." The study was directed by a physician (a public health officer) with the assistance of a barber and an advisory board of five "well-known" dermatologists. The study group conducted an exhaustive investigation and held two hearings.

The investigation included a questionnaire survey responded to by local boards of health in 122 cities and towns in the state. The survey sought information as to any evidence that may have come to the local boards of health concerning the spread of communicable disease through barber shops. The committee also inspected the six barber schools in Boston several times. In addition, 1,675 physicians (30 per cent of those in the state) responded to a questionnaire concerning any reported cases of skin-related diseases that may have been spread by barber shops. Finally, the committee surveyed the laws and regulations of 34 States and territories and obtained the opinions of 6 State boards of barber examiners.

At the first hearing held, 20 individuals testified, including 10 representatives of organized labor, 2 from local boards of health, 2 from barber schools, 2 master barbers and 4 citizens at large. All the representatives of organized labor supported the legislation. The local board of health representatives felt that the cities and towns were well able to handle the situation, "and that further authority was unnecessary." The two barber school representatives also opposed the legislation as did two speakers representing the general public who expressed a "fear of increased costs."

The second hearing "was practically a repetition of the first" with the group representing organized labor and master barbers again supporting the enactment of licensing legislation and the speakers representing the public again opposed.

On the basis of its intensive investigation, the committee drew the following conclusions:

(a) Unquestionably there is an opportunity for improvement in the sanitary conditions of barber shops.

(b) Only a negligible amount of skin infection can be traced directly to barber shops.

(c) Authority for adequate supervision of barber shops equal to any in the country already exists, and in certain cities in the Commonwealth codes have already been adopted that are entirely admirable. Budget allowances must, of course, be made to permit a competent inspectional service.

(d) No evidence was obtained which would indicate that further legislation for the licensing, regulating or inspecting of barbers or barber shops was needed at this time.[2]

Despite the overwhelming evidence gathered by the study group against the need to protect the general public through the licensure of barbers -- in less than two years after the report was issued -- the Massachusetts state legislature passed a barber licensing law which was prepared by the Master Barbers' State Association![3]

The following quotations from the first Annual Report of the Massachusetts barber licensing board reveals rather clearly what was in the minds of the supporters of the law:

> This Act is, as was constantly and consistently stated a great health measure, a protective measure, and it has also proved to be an economic measure of no mean importance. Of course it is well understood that any measure that affects the public health is of interest to all the people.
>
> The Barbers Registration law directly affects the public health for some member of each family visits the barber shops in our Commonwealth at least once a month, and in the majority of cases, still oftener. There is no doubt that the barber shop is, or can become, a very prolific source of disease but under proper sanitary conditions it stands in the forefront guarding the public health. The Board of Registration of Barbers should therefore receive the utmost goodwill and cooperation of every official and every citizen of the Commonwealth in making this law effective.
>
> The law goes beyond its sanitary provisions. It protects the public against the danger of the incompetent barber. He is as great a menace as the unsanitary barber. This is clear to anyone who is even slightly acquainted with the study of the hair, skin and scalp.
>
> Because of the examination required of all who wish to register, many out of the state barbers who might otherwise have applied for registration have not filed applications for registration in this State; and others have left the state because they could not meet the requirements of our law, and this under present economic conditions has been a saving to the taxpayer for with an influx of these incompetent barbers from other states, and with their dependents, they would have been an added burden to the already overburdened welfare organizations of this Commonwealth.[4]

In 1936, the barber licensing board recommended an amendment to the law which barred the display of price lists where such lists "may be seen or read from the outside." This also was passed by the legislature and is now part of the law.[5]

In 1943, on a petition from the Journeyman and Master Barbers, a bill was introduced into the Massachusetts legislature to establish a "minimum price schedule" when seventy per cent of the operating and licensed barbers in any city or town sign a petition in its support.[6] This did not become part of the Massachusetts law, as it did in Rhode Island, but it is one more indication of the real interests of the barbers in their support of licensing.

In a 1936 study of the Journeymen Barbers' International Union, W. Scott Hall surveyed Boards of Barber Examiners and asked what group or groups were primarily instrumental in obtaining the licensing law. "The boards which replied answered as follows: 11 named the Journeymen's Union and the Masters' Association, 4 the Journeyman's Union alone and 2 the Masters' Association alone. One board failed to answer the question and 6 returned indefinite answers as 'masters and journeymen.'"[7]

In none of the evidence is there any indication of a public outcry for such legislation -- there is not so much as a whimper! On the contrary, all the evidence points to the support of such legislation coming solely from barbers or their organizations with the primary goal being the lessening or elimination of competition.

Plumbers, Rhode Island: On January 14, 1911, The Providence Journal reported that Master Plumbers' Association supports a registration and licensing system.

Plumbers, Massachusetts: At the request of the Massachusetts Association of Master Plumbers, the state Department of Health established a committee to consider the formulation of state plumbing laws. The five-man committee appointed by the health department included a representative from the Association of Master Plumbers and a representative from the Journeymen Plumbers. The committee recommended, among other items, "That the licensing of master plumbers and journeymen be compulsory throughout the state" and "that permits be granted only to master plumbers.[8]

Plumbers and Electricians, Connecticut: Interviews with the executive secretary of each of these boards indicated that the support of statewide legislation came from the unions in the fields.

Electrologists, Massachusetts: The bill creating a licensing board that was passed by the Massachusetts legislature was introduced on a petition by the Association of Electrologists.[9]

Hairdressers, Massachusetts: The bill passed by the legislature creating a hairdressers' board was introduced on a petition from the Hairdressers' Association.[10]

Although the evidence is admittedly sparse, in all cases it indicates that the pressure for licensing came from representatives of the occupation licensed. No evidence whatsoever could be found of consumer pressure for licensing legislation. This is consistent with the following findings of Shimberg, Esser, and Kruger:

> Although the rhetoric of licensing places much emphasis on protecting the public health and safety, in practice the public has little to say about enacting licensing legislation. The sponsoring group usually drafts the legislation and then has it introduced by a friendly legislator. Members and friends participate in an organized letter-writing campaign to support the legislation; practitioners and paid lobbyists call on legislators in person to obtain commitments for the law. When the hearings are held, expert witnesses can be summoned to lend their prestige and technical knowledge to the legislative effort. The public is all but forgotten. Concerned citizens who may be opposed to the legislation rarely have the financial resources to initiate a counter-campaign. Thus,

legislators are likely to hear only one side of the issue and to mistake a lack of opposition for tacit assent on the part of the public.[11]

FOOTNOTES

1. *The Providence Journal*, March 13, 1903, p. 4 and March 14, 1903, p. 1.

2. *Special Report of the Department of Public Health Relative to the Need of Establishing a Board of Registration of Barbers*, House Document No. 199, Massachusetts Legislature, January 1930.

3. *Journal of the House of Representatives* of the Commonwealth of Massachusetts, January 15, 1931, p. 105.

4. Board of Registration of Barbers of Massachusetts, *Annual Report*, November 30, 1932, p. 2.

5. *House-No. 6*, Massachusetts State Legislature, January 1936, pp. 2 and 3.

6. *House-No. 724*, Massachusetts State Legislature, 1943, pp. 2-4.

7. W. Scott Hall, *Journeymen Barbers' International Union of America*, The Johns Hopkins Press, Baltimore, 1936, p. 80.

8. *Report of the Special Plumbing Board of the Massachusetts Department of Health*, January 3, 1920, p. 71.

9. House Document 2725, *Legislative Documents*, Massachusetts, 1956.

10. *Journal of the House of Representatives* of the Commonwealth of Massachusetts, January 20, 1931, p. 157.

11. Benjamin Shimberg, Barbara F. Esser, and Daniel H. Kruger, *Occupational Licensing: Practices and Policies* (Public Affairs Press: Washington, D. C., 1973), p. 14.

PART III

THE "RECORD" ON COMPLAINTS

THE "RECORD" ON COMPLAINTS

The social rationale for occupational licensure, generally incorporated in the legislation itself, is that licensure is necessary to protect the public by maintaining high quality standards in the provision of certain essential services. It would be useful to develop an index of consumer satisfaction that would provide some measure as to whether the legislation is actually justified in terms of its social rationale, but such an undertaking is beyond the limited scope of this study.

However, it is possible to assess the degree to which the behavior of the licensing boards is consistent with that social rationale by examining how they deal with consumer complaints. This will involve a survey of fifteen of the licensing boards and discussions of the work of the Massachusetts Division of Registration and the Rhode Island Division of Professional Regulation.

Complaints and the Boards

None of the licensing boards in Rhode Island or Connecticut have compiled data on consumer complaints. They have no accurate records on the number and kinds of complaints received, nor as to how they were resolved -- which in itself says something about the "concern" of the boards with this problem.

It was not until 1974 that the Massachusetts licensing boards began to compile any kind of data on consumer complaints, and that was done only after considerable pressure from the Executive Office of Consumer Affairs. However, as will be discussed subsequently, the data compiled during that year are highly suspect and for all practical purposes, useless.

The best source of information on consumer complaints and how the boards deal with them is likely to be found in the minutes of the board meetings. Unfortunately, only three of the boards made their minutes available for this project. When a request was made to examine the minutes of the Rhode Island boards, the Administrator of Rhode Island's Division of Professional Regulation, who was otherwise very cooperative and helpful in many matters, said that she did not have the authority to make the board minutes available, but would "seek a ruling from the attorney" for the division. The attorney rejected the request. When the purpose of the project was explained to the attorney, he responded, "The federal government is not God, you know. The boards have made mistakes in the past and this might cause trouble. We are trying to correct those mistakes."

Therefore, for information on complaints handled by the licensing boards, it was necessary to rely upon the limited data available in annual reports, the minutes of the meetings of three licensing boards, and interviews with board officials. All references in the following discussion to statements made by board officials are to their comments when interviewed as part of this project.

Plumbers: The Rhode Island board members stated that they do not handle consumer complaints, that such complaints are handled by the local plumbing inspectors. The local plumbing inspectors, they said, deal only with questions of "quality," i. e., whether the work conforms to the plumbing codes. When asked about consumer complaints about price, the board chairman asserted, "That's none of our business -- price is a matter for the consumer and the plumber to settle." They also stated that they were unaware of any license ever having been revoked. However, the chairman noted there were "frequent complaints by master plumbers against journeymen taking on work [permits] without a master's license."

The Massachusetts board, unlike its counterpart in Rhode Island, does handle consumer complaints, of which it reported 117 in 1974. According to the board's Executive Secretary, the complaints come from the Office of the Attorney General, the Secretary of Consumer Affairs, the Consumer Complaint Division, and some directly from the consumer. "Most complaints involve overchanging," he said, "and the consumer is usually right." He pointed out that "the plumber usually makes restitution rather than go through a hearing." His board gets very few complaints from craftsmen and they are "usually anonymous crank calls." He said there are about 10 to 12 suspensions a year (from 90 days to 12 months depending on whether the plumber is a chronic violator), but only three licenses have been revoked in the past sixteen years.

The Connecticut Plumbing Board's Executive Secretary said, "We get at least one complaint a day from consumers and they have increased with inflation. Most are handled over the phone." He could not remember the board having revoked any licenses, but a "few had been suspended for a month." Although there were not many complaints of plumbers vs plumbers, he said that "we do tend to get more as the market worsens and licensed plumbers attack non-licensed people doing jobs."

Barbers: The members of the Rhode Island barber board complained that "we have no power now -- We used to have three inspectors with our board and one with the Division of Profession Regulation. But they were all taken away. There are some shops working with two or three apprentices [the law allows only one]. But they can get away with murder. Now they never see an inspector. We ask the inspectors with the Food and Sanitation Division to check on licenses, but we get only ten per cent cooperation because the Food and Sanitation people feel its not their job. We lost the inspectors within the last five years."

One board member said the "biggest infraction of the rules was barbers working on Saturdays -- unlicensed men picking up extra money -- they work in a jewelry shop all week and then make extra money working Saturdays."

When the barber board did have its own inspectors, the complaints dealt with almost invariably concerned infractions of maximum hour and minimum price regulations under the law, as the following examples from the Annual Reports of the Division of Professional Regulation indicate: In 1943 the report noted that there were 21 hearings and that "most of the alleged violations involved non-compliance with the order establishing schedules of hours during which barber shops may remain open for business. In 1949 a barber's license was revoked for an indefinite time on charges that he had advertised prices for barbering services in violation of the law, a second was suspended for violating the schedule of minimum prices, and a third suspended for opening his shop on Sundays. In 1950 one barber was suspended for "performing barbering services on a house-to-house basis rather than in a licensed barber shop and another was suspended for opening his shop on Sunday. In 1951 "many complaints were received charging barber shop operators with violating the regulation governing minimum prices for barbering services and the regulation establishing maximum hours during which barber shops may remain open for business. Our standard policy was to have a non-barber investigator place the reported barber shops under surveillance. When the complaints were found to be justified the shop owners were ordered before the Administrator and the Board for hearing. In all cases during the year it was possible to bring about a satisfactory disposition by placing the offending barber under warning and exacting a promise of future cooperation."

There was not a single reference in the Annual Reports to consumer complaints concerning the services of barbers. Furthermore, the members of the barbers' board could not recall a license ever having been revoked. The only one found in the Annual Reports dealt with a barber who had advertised prices!

The Connecticut barber board's three full-time members must conduct an annual inspection of the state's approximately 1800 shops, make up, conduct and grade all exams, as well as hold hearings for violation of the law. They have no staff of inspectors to assist them. When asked if they revoke many licenses, the board chairman responded, "Never. We don't want to take away a man's living." When it was pointed out to them that their annual reports for 1967-68 to 1970-71 cited 16 barbers who had been suspended for two weeks to two months and that suspension certainly takes away a man's earnings, the chairman replied, "No, a suspension does not mean the shop is closed. A suspension is only a warning. They usually comply."

They also stated that they get very few complaints from consumers, that most of those complaints are on price, and "we tell them we can't do anything about price." If they did get complaints, it is difficult to see how they could be processed given all the other duties of the three board members and the fact that they have no staff.

The secretary of the barbers' board in Massachusetts and one of the board members stated that they get very few complaints from consumers. Yet, in response to a questionnaire from the Massachusetts Executive Office of Consumer Affairs, the board reported 100 consumer complaints in 1974 and an average cost of $200 to process each complaint. The $20,000 reportedly spent on processing complaints was almost 20 per cent of the board's $102,000 expenditures for 1974. These data appear to be highly unreliable as the electricians' and plumbers' boards, with total expenditures of $118,000 and $139,000, spent only 3 per cent of those amounts in processing complaints at an average cost of approximately $40 per complaint. (Expenditure data are from Division of Registration, 1974 Fiscal Year Expenditures, Massachusetts.)

Electricians: The chairman of the Rhode Island electricians' board stated that the board gets very few complaints from consumers. Most involve, he said, "Violations of the law -- standards of installation. We call in the electrician and have him correct the job." No licenses were revoked in his years as board chairman, he said. He also stated that there were "jurisdictional conflicts among electricians when things get tough."

The Massachusetts' electricians' board Executive Secretary said that there are few consumer complaints (93 were reported by the board to the Executive Office on Consumer Affairs in 1974). He noted that few licenses are revoked, that "we get the electrician to correct the job -- it's better for the consumer than to have another electrician come in and start all over again and add to the consumer's costs." In Biennial Reports of the electricians' board examined over the last two decades, there were reports of a total of 4 licenses revoked, 23 suspended, 11 electricians placed on probation, and 7 given warnings, and 7 fines ranging from $20 to $80. These figures seem strikingly small given the fact there were more than 20,000 licensed electricians in Massachusetts, according to the board's 1972-73 Biennial Report. The Massachusetts Executive Secretary noted that "we get complaints of one licensee against another when things are slow."

The Connecticut board's Executive Secretary estimated that there are about 15 consumer complaints a month. He said, however, "When I tell them they have to put it in writing, that about cuts them in half. Most are of a crank variety." The Executive Secretary, who also functions as the inspector for the board, complained that he is "understaffed with a vengeance with no time to really check out complaints although the legislation provides for investigation of complaints." As did the plumbers in Rhode Island and Connecticut and the electricians in Massachusetts, the Executive Secretary of the Connecticut electricians' board stated, "We get many more complaints by electricians against non-licensed electricians during rough times."

Hairdressers: The three members of Rhode Island's Board of Hairdressers insisted that they never got any complaints from consumers or licensees and have never revoked a license. That there are no complaints from consumers or licensees is difficult to believe since there are more than 5,500 licensed hairdressers and over 1,000 shops in the state.

The Senior Inspector of the Hairdressers' Division in Connecticut said that there are two or three complaints a week from consumers, we have no staff to inspect consumer complaints, and that "we generally send them back for corrective service." To her knowledge, only one license had been revoked recently. She stated that they "used to revoke 5 or 6 a year -- shops hiring unlicensed people was our biggest problem." With the recession, she said, there have been "increased complaints recently from licensed hairdressers against non-licensed people charging that work is being done in the home."

Opticians: In going over the opticians' board minutes in Massachusetts since 1957 and in Connecticut since 1935, there wasn't a single reference to complaints from consumers, although there were numerous references to complaints involving advertising, pricing practices, and the practice of opticianry by non-licensed personnel. Neither could any evidence be found in the minutes in either state of a license having been revoked. The chairman of the optometry board of Rhode Island (the opticians' board is a sub-board of the optometry board in that state), was not aware of an optician's license ever having been revoked, nor was he aware of any consumer complaints against opticians.

Electrologists: Numerous complaints were discussed in the Massachusetts electrologist board minutes since 1964. However, they dealt primarily with such matters as advertising violations the illegal operation of electrologists in beauty salons, and the practice of electrolysis by unlicensed personnel. There were no references to complaints by consumers or revocation of licenses.

In sum, the available evidence indicates that eight of the fifteen boards handled no consumer complaints, five of the boards had a few, and only the plumbers' and electricians' boards reported any significant number. Ten of the fifteen boards reported complaints of licensees against other licensees or against non-licensed individuals; significantly, of the ten, four reported that such complaints increased when market conditions worsened. Perhaps most significant of all, of the fifteen boards, nine had never revoked any licenses, one had revoked a license because the individual had advertised prices, one had revoked one license in "recent years," one had revoked four licenses in two decades, one had revoked three in sixteen years, and for two no information was available.

In general, the deplorable state of the boards' records on consumer complaints, the fact that eight of the fifteen boards surveyed handled no such complaints, that in general they have no staff or are understaffed to handle such complaints, and that there have been so few revocations of licenses suggests that consumer complaints are not a serious concern of the boards.

Rhode Island's Division of Professional Regulation

Rhode Island's Division of Professional Regulation has within its jurisdiction the following nine licensed occupations included in this study: barbers, journeymen plumbers, master plumbers, electrologists, dental hygienists, opticians, embalmers, funeral directors, and physical therapists. In addition, the Division participates in the regulation of fourteen other licensed occupations or professions.

In its latest (1973-74) Annual Report, in a section entitled "Discipline and Investigation" the following passage appears:

> This division conducts routine investigations of the practioners of the various professions and callings licensed by it. Investigations are also undertaken as a result of citizen complaints and complaints from other agencies of state government. At the end of each renewal period for a particular calling or profession, a non-renewed list is compiled and this office investigates said persons to determine whether or not these persons are practicing without having renewed their licenses. This in itself comprises a substantial number of investigations per year. If after various investigations this office determines that there is a potential or in fact a violation of any of the applicable laws or regulations, the matter is immediately brought to the attention of the appropriate board for action thereon. The boards will generally endeavor to resolve these matters without recourse to a formal hearing as it has been found in many instances that a misunderstanding was the real basis for the complaint. Also, some complaints are disposed of by having the licensee involved appear before the board and both parties determine a course of action best suited to the interests of all.

It is clear, however, that the regulation of the licensed occupations, beyond the actual licensing, is minimal in Rhode Island, and that virtually nothing is done by the Division or its boards with respect to consumer complaints.

The Division has jurisdiction over approximately 20,000 licensed individuals yet in its 1973-74 Annual Report there were only seven cases involving infractions of the law. Five of those cases, four involving a physician and one a chiropractor, dealt with alleged violations of drug laws and "generally involved over-prescribing of controlled substances." The other two cases concerned a nurse who was suspended for three months after an informal hearing and a dentist who had surrendered his registration to prescribe dangerous and narcotic drugs and was authorized to reapply for registration after an informal hearing. The report did not contain a single reference to consumer complaints.

Given the staffing pattern of the Division and the licensing boards under its jurisdiction, the minimal activity in handling consumer complaints is understandable, however regrettable. All the board members are employed on a part-time basis and almost all are representatives of the occupations licensed. None of the boards have any staff except the embalmers and funeral directors' board, which has one investigator. The Division itself has no inspector or investigators. Its staff of nine is composed of the Administrator and eight clerical workers who must service all the boards. As the Division's Administrator complained in his fiscal 1970 Annual Report, "The division is extremely vulnerable due to lack of administrative depth. [Except in the field of nursing] the division administrator has no high level assistance --- There is a serious weakness in our investigative staff which consists solely of a lay investigator and a funeral directing inspector." Subsequently, even the one lay investigator position was eliminated!

When interviewed, the Division Administrator stated that when consumer complaints are received they are "referred to the associations of the various professions. The Division and the boards do not handle complaints except those in violation of the law." The Division's fiscal 1974 Annual Report, after reviewing the seven cases discussed above, concluded, "In general, however, the professions through their societies police their own activities and through peer review maintain a good standard of performance." No evidence was presented to support that statement.

The preceding quotation is highly significant with respect to what it reveals about the operation of the licensing system in Rhode Island. In the light of the paucity of complaint activity on the part of the various Rhode Island boards, the absence of any staff to investigate complaints, and the rarity with which licenses are suspended or revoked, the quotation indicates that while the state has granted monopoly power to the recipients of licenses to practice their respective occupations, it has abdicated its responsibility to regulate those professions in the interest of the consuming public; instead the state has delegated de facto power to the professions "through their societies [to] police their own activities."

Massachusetts Division of Registration

Starting in 1968, a movement began in the executive branch of the Massachusetts government to restructure the licensing system. The aim was to reduce the influence of the various licensed occupations and make the process more responsive to the needs of consumers. A brief summary of the major developments tends to confirm much of what has already been indicated in this study and also makes manifest the enormous difficulties (and perhaps the virtual impossibility!) of achieving any significant licensing reform at the state level.

In 1968 a "Special Commission on Government Operations" generated a staff study entitled Occupational Licensure and the Division of Registration. The following quotations from that study succinctly depict the fundamental characteristics of the licensing structure in Massachusetts. Furthermore, the quotations focus on the key dilemma of present systems of licensure -- that the delegation of power to licensing boards to set standards, ostensibly to protect the consuming public, is a concomitant grant of power to protect those licensed from competition at the expense of both the unlicensed and of the consuming public:

The Division of Registration came into existence in 1919. The Division has a Director, appointed by the Governor for a term coterminous with his. In addition to the director's office the Division consists of 21 loosely allied boards of registration. The 1968 law added a 22nd board for the registration of landscape architects.

The Division's general responsibilities are to regulate and license those occupations and to enforce the laws and regulations pertaining to them. Specifically its functions are: (1) to make rules and regulations governing the conduct of written, oral and practical examinations for the respective occupations; (2) to grant certificates of registration to properly qualified candidates of this state and those registered by other states; (3) to issue permits to engage in businesses or professions and to suspend, revoke, or cancel certificates, registrations, licenses, or permits for cause; (4) to inspect plants against all violations of laws, rules, and regulations relating to licensed personnel and to inspect shops and schools providing training for applicants seeking registration; (5) to prepare and grade examinations or make arrangements with outside associations for this to be done; and, (6) to review all appeals arising from any suspension, revocation, or cancellation issued by the boards.

Responsibility for performing the functions of the Division is highly decentralized, being placed largely in the various boards of registration. The Governor appoints the director of the Division, but the latter has little or no control over the activities of the individual boards. The Governor also appoints the members of the registry boards which theoretically should give him close control over their activities. In fact, however, each board has a high degree of autonomy in regulating the occupation or profession within its jurisdiction, and each appears to operate with a great amount of independence from one another and without affective review by the Governor, the Division of Registration, or any other agency in state government. The Director's office devotes its attention to matters of administration and finance which affect the Division as a whole; it exercises control over the boards only on questions such as personnel and equipment requests. The Director has no power to set policy with regard to the licensing practices of the various boards or to review the decisions of the boards.

The powers of the boards of registration fall into two general categories: (1) to determine entrance qualifications for the particular profession or occupation, and (2) to establish rules of conduct governing the behavior of individuals therein. Thus the boards have broad quasi-legislative powers to govern admission to and practice of the professions

> and occupations within their jurisdiction. In addition, the boards are authorized to review all appeals of their decisions, which gives them substantial quasi-judicial powers to supplement their rule-making authority.
>
> Boards range in size from three to twelve members -- most with five. Most employ executive secretaries to handle the administrative aspects of their functions. --
>
> Each board keeps its own financial records, its own system of reviewing appeals, and most employ investigators for enforcing purposes. --
>
> The power to limit entry into a profession and the power to establish rules of conduct for them is essentially the same as the powers held by a cartel or a private monopoly. --
>
> The present organization /of the Division/, with its decentralized authority and its all-professional membership on the boards, is not a sound structure to ensure protection of the public interest. Boards are too often more accessible to the members of the professions than to members of the public, and the phenomenon of all-professional board membership converts public regulation for practical purposes into trade self-restraint.[1]

In 1973 the Executive Office of Consumer Affairs, of which the Division of Registration is a component, presented a Plan for Reorganization. The document's assessment of the Massachusetts licensing process is even more damning than the Special Commission's staff study as is evident from the following excerpts:

> At the turn of the century Massachusetts regulated two professions: Law and Medicine. Today the Commonwealth regulates 27 professions and occupations under the Division of Registration. This epidemic of professional regulation over the past 70 years has, in large part, been unplanned, ill-conceived and inconsistent.
>
> The Division of Registration is now made up of two components: The Director and his staff and the 27 independent Boards of Registration. The Director is not a high level administrator; he has no authority to supervise the substantive aspects of the Division's regulatory activities (e.g., whether an applicant should be allowed to take an exam, or be licensed, or whether a licensee should lose his license) and his staff is almost exclusively clerical in nature. The power of the Division is diffused among the 27 separate boards. Thus, the Director of the Division can be characterized as a powerless lord trying desperately but unsuccessfully to rule the 27 fiefdoms in his kingdom.

The 27 Boards of Registration are comprised of some 165 members. Except for the Barbers and Hairdressers Board, the members are part-time and receive minimal remuneration, usually a per diem fee. All board members are appointed by the Governor for set terms.

The staffing for the boards is haphazard, ranging from the Real Estate Board with 31 employees, including a full-time executive secretary, 14 full-time investigators and a part-time attorney, to the Optometry Board with a part-time clerk. -- However, even if these staffing obstacles were to disappear, the present board system would still be plagued with four fatal defects:

First, 159 of the 165 board members are part time. They are part time because the cost of paying them on a full-time basis is prohibitive -- As long as the independent board system exists, its members will most likely be part-time workers. What are the consequences of depending on 'part time regulatory agencies?' In many cases, boards take months to complete tasks that should be handled promptly. -- The complaint process has become virtually useless because the consumer is not satisfied and the offending professional is not disciplined. Even the most able and well-qualified boards do not function effectively on a one or two day a month basis.--

A second major shortcoming in the present system is that board members are not trained as regulators. Most of them do not know very much about rules and regulations, administrative hearings or due process. They are chiropractors, not judges; drinking water treatment experts, not legislative draftsmen. At best, this means that the boards operate in a sloppy, imprecise manner. At worst, this means they operate illegally, such as in the case of the Health Officers Board which, during its two-year existence, has refused licenses and has held hearings despite its failure to promulgate any rules and regulations!

Thirdly, the board members are not administrators. They supervise the spending of hundreds of thousands of dollars but, in most cases, know nothing about the state budget system. They oversee a large number of employees but are unfamiliar with state personnel and civil service laws.--

Finally, as provided by existing statutes, approximately 80% of the board members are actually licensed members of the professions and occupations which they are supposed to regulate. (This situation has been described as analogous to 'putting the fox in the chicken coop'). As the regulators actually represent the professions and occupations which they regulate, they are in effect 'captives' of those professions and occupations. In most instances, this captivity is not premeditated. Most board members are dedicated and honest, but they simply cannot be plumbers 99% of the time and then completely disassociate themselves from their experiences as plumbers that remaining

> 1% of the time. Asking a plumber or dentist to regulate his peers--his friends--himself is asking too much. It is unrealistic to expect a doctor to impose periodic testing on himself. It is folly to expect that an electrician will not be defensive when a consumer complains about poor service by a fellow licensee. Board members are naturally as concerned with their professional images as with their professional ethics. They are interested in insuring that customers pay their bills as much as insuring that high-quality professional services are rendered. The problems inherent in having professionals regulate themselves have been widely discussed. The Legislature recognized and addressed the problem in 1971 when it passed a law requiring at least one member of the public on each board. This measure was a token beginning to a solution of the problem. A complete solution is provided by the Reorganization Plan.
>
> In summary, the Boards of Registration have failed to perform their chief responsibility: protection of the consuming public of Massachusetts through responsible regulation of their respective professions.[2]

Based largely on recommendations in the Plan for Reorganization, Governor Francis W. Sargent presented a bill to the Massachusetts legislature in March 1973. The governor's proposed legislation would have:

1. Eliminated the present licensing boards;
2. Created a registration and licensing administration which would have jurisdiction and authority to license and register, and take any other actions permitted by law relating to the professions and occupations licensed;
3. Given to the administrator the authority to make rules and regulations governing the conduct of written and oral examinations;
4. Given the administrator the power to file with the administrative court a petition seeking the suspension, revocation, or nonrenewal of any license issued by the administration for violation of any requirement established by law or regulation;

5. Established advisory committees for each profession, composed of four licentiates of the said profession and one public representative.

In essence, the fundamental change recommended by the governor was the elimination of the profession-controlled licensing boards and the assignment of a purely advisory role to licentiates of the profession. In presenting his proposal, Governor Sargent asserted, "No longer will boards refuse to suspend licenses of their fellow practioners when the circumstances warrant it. The public deserves the protection of an agency which will ensure that the small minority of licensees who do not meet acceptable standards of quality will not be allowed to serve the public."[3]

The bill never got beyond the committee stage. A year later the Boston Globe editorialized:

> Last year Governor Sargent proposed the elimination of 18 non-health related state professional licensing boards and their replacement by a centralized administrative agency. His plan incurred the immediate opposition of organizations representing the occupations involved. Their arguments about the elimination of professional standards and their not inconsiderable political muscle were more than enough to persuade the Committee on Government Regulations to kill the bill by sending it to study despite its appeal to those who see the boards as bastions of guild-like protectionism and exclusivity.[4]

The Executive Secretary of the electrician's board, himself an opponent of the bill, and an official of the Executive Office of Consumer Affairs, a proponent of the bill, both agreed when interviewed that the primary force behind the killing of the bill was the powerful opposition of unions and associations representing the licensed professions and occupations.

In March 1974 Governor Sargent tried again, this time with a much more modest proposal that would have continued the life of the boards. Furthermore, the boards would have retained their powers to regulate (1) the qualifications of applicants for licensure; (2) standards of professional conduct of licensees; (3) the content, design and grading of qualifying exams; and (4) approval of professional schools and curriculum where appropriate. The bill contained two significant substantive changes: (1) a complaint and investigation division would have handled consumer complaints and inspections relating to all the professions; and (2) suspensions and revocations of licenses would have been decided by the administrative court upon the petition of the administrator who in turn would have acted upon the recommendation of his investigators and after consulting with the affected board. In submitting the bill, the Governor commented, "The boards would thereby be relieved of a responsibility which they have shown themselves incapable of handling, namely taking disciplinary action against a member of their own profession."[5]

Even this modest compromise proposal was buried in committee and never reached the legislative floor for debate.

Although no attempts have been made to achieve legislative revamping of licensure since the above failure, the Executive Office of Consumer Affairs has been working on internal reform. However, experience in the data collecting and interviewing aspects of this study suggests the attempt at internal reform is not being pressed with great vigor or success. When an official of the Consumer Affairs' Office was asked if the data were available which formed the basis for the 1973 Plan for Reorganization discussed above, he replied that he would "dig it out of his files." After four phone conversations and a personal visit over a two-month period, the official finally said that "the material could not be found."

And this material was the basis for a major governmental reform! In another phone call about a month later the official stated, "We have a report with data on complaints handled by the licensing boards that will be of more use to you than the material you were looking for." The following single page is a complete copy of the "report"! When asked if that is all there is, the official replied "Yes."

Simple arithmetic applied to the data makes it clear that the information provided in the table is highly suspect. On the basis of the data in the table it costs, on the average, $200 to handle a complaint involving barbers, but only $83 a complaint against physicians, and a mere $2 per complaint about pharmacists. Surely, barber shop complaints could not be so complex that they are almost two-and-one-half times more costly to process than complaints involving medical practice and fifty times more costly to process than complaints involving pharmacists. According to the report it cost more to deal with the consumer complaints against barbers than the combined cost of consumer complaints against physicians, electricians, plumbers, dispensing opticians, pharmacists, chiropractors, and nursing homes!

One is forced to conclude that the report is manifestly useless for the Executive Office of Consumer Affairs in its efforts to reform the licensing process. An interview with the same official of the Consumer Affairs Office mentioned above revealed that his office did not know what the nature of the complaints were, did not check the accuracy of the figures, and did not know how the complaints were resolved. Furthermore, he stated that the "personnel dollars spent on complaints" was no more than an estimate by the

CONSUMER COMPLAINTS

Agency	# full time complaint employees	Personnel $'s spent on complaints	# of complaints 1975
Banks	8	76000	10000
Milk Control Comm.	0	0	12
Insurance	23	266685	27013
State Racing Comm.	0	0	NA
Consumers' Council	2	27000	8600
Division of Standards	0	250	315
Health, Welfare	9	108000	3580
Dept. of Public Utilities	8	80000	50000
Office of the Secretary	3	25000	12000
CATV Comm.	0	8000	305
ABCC	1	32500	468
Boards of Registration			
Architects	0	0	0
Real Estate	17	148785	605
Engineers	0	0	19
Medicine	0	10000	120
Dentists	0	5708	116
Podiatry	0	350	15
F.D. & Embalming	0	NA	12
Optometry	0	700	38
Nursing	0	5300	39
Veterinary Medicine	0	2769	41
Chiropractors	0	300	5
Electricians	0	3900	93
Plumbers	0	4832	117
Electrologists	0	100	4
Dispensing Opticians	0	500	20
Sanitarians	0	0	6
Landscape Architects	0	0	0
Radio & T.V.	5	34820	500
Waste Water Treatment	0	0	0
Health Officers	0	0	0
Drinking Water	0	0	0
Nursing Home Adm.	0	0	2
Psychologists	0	0	3
Accountants	0	15000	255
Barbers	0	20000	100
Hairdressers	NA	NA	NA
Pharmacy	0	400	200
Total	76	876899	114603

various boards and that his experience in the Office of Consumer Affairs indicated to him that, at least for some of the boards, "the number of complaints was seriously understated." Perhaps the most damning criticism of all athat can be levied against the entire complaint evaluation process is that no independent agency, including the Office of Consumer Affairs -- the agency most directly concerned with the problem -- has collected any data of its own. The only data available, as has been discussed, are those generated by the institutions under investigation, the licensing boards themselves.

In conclusion, the review of the activities of fifteen licensing boards, the Division of Professional Regulation in Rhode Island, and the attempts at reform in Massachusetts indicates that dealing with consumer complaints is virtually a non-existent activity for most boards in the three states and at best a low priority item for others.

FOOTNOTES

1. Thomas Brewer, Occupational Licensing and the Division of Registration, Staff Study No. 4, Preliminary and Confidential Draft for Commission Consideration, (Special Commission on Government Operations, Massachusetts, 1968) pp. 2, 4, 5, 7, and 16.

2. Plan for Reorganization, Executive Office of Consumer Affairs, Commonwealth of Massachusetts, January 1973.

3. House-No. 6090, The Commonwealth of Massachusetts, March 9, 1973.

4. The Boston Globe, February 5, 1974.

5. House-No. 5566, The Commonwealth of Massachusetts, March 27, 1974.

PART IV

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

This concluding section will summarize the preceding discussion, focusing and commenting upon what the author believes are the major social problems generated by the existing licensure system. The study will conclude with some suggestions for reform.

The Examination Process: The basic rationale for the examination process is that it is a means of determining, prior to and as a condition for granting a license, whether the applicant's skill and ability measure up to certain minimum socially acceptable standards; the overriding purpose is the protection of the public in its consumption of essential products and services.

The social desirability of delegating to licensing boards control over the examination process rests on three key implicit assumptions: that (1) the boards are able to determine what are minimum socially acceptable standards; (2) the boards are capable of devising exams that can reasonably test whether an individual meets those standards; and (3) the boards will not abuse the examination system as a device for restricting entry into occupations in order to protect from competition those already licensed.

Unfortunately, the evidence clearly indicates that there is no sound basis for accepting the validity of any of those three assumptions and that therefore there is no basis for accepting the existing examination process.

Perhaps no other activity of the licensing boards have come under more vigorous attack than the examination process. Shimberg, Esser and Kruger, in their wide-ranging study of occupational licensing, reviewed the process and concluded, "The quality of testing in many occupational licensing programs is so low that one wonders how the revolution in testing --- could have managed to bypass so completely the field of occupational licensing. --- Of the boards studied, a large majority were using outmoded procedures in both their written and their performance tests."[1] In a story headlined "Closed Societies?," The Wall Street Journal recently reported the following:

> When 2,149 aspiring general contractors took the Florida Construction Industry Licensing Board's exam in 1973 to test their competence, they all failed.
>
> Quite obviously, the disastrous results made a strong statement about either the general caliber of potential contractors or the board's ability to assess their qualifications. Some state legislators, taking the latter view, suggested that the total failure had been a calculated effort by the board to limit competition by barring new entrants to the field.
>
> Besieged by indignant protests from builders who had flunked, the board abruptly reversed itself. It curved the grades so that 88%, or the 1,887 who scored least poorly, were given passing marks and an official blessing to go forth and build.
>
> Incensed by the exam fiasco, the Florida legislature kicked off an investigation of all 27 of the powerful state bodies that decide, largely on their own, who can engage in such pursuits as practicing medicine, burying the dead, selling houses and cutting hair. ---
>
> --- the Florida legislature took specific action to forestall a repetition of the construction-exam case. It passed a law that expands the construction board's membership to 13 from seven, and requires that one member be an outsider. (The current lay member, an attorney, serves as chairman of the board.) The new rule also requires the board to use a professional testing service to preapre and administer its exams.

In the same article the Journal reported a Department of Health, Education and Welfare task force conclusion that boards "all too often become the means for limiting entry to careers," and an Equal

Opportunity Employment Commission proposal that "licensing boards comply with the same rules as employers on personnel testing and selection procedures."[2]

This study's analysis of failure rates on licensure exams lends powerful support to the argument, heretofore based at best on casual empiricism, that the examination process is in fact used as a restrictive device to insulate from competition those already licensed.

As a means of assessing the validity of that argument, it was hypothesized that failure rates on licensure exams tend to vary with the level of unemployment. Fluctuations of failure rates in the manner hypothesized would be a clear indication that licensing boards do use the exam system to protect the licensed from increased competition.

In testing the hypothesis, regressions were run with failure rates on licensure exams as the dependent variable and unemployment rates as the independent variable. The tests were conducted using time series data of failure rates on the twelve licensure exams for which adequate data could be obtained. Ten of the twelve regressions yielded statistically significant results: four at the one per cent level (master plumbers in Rhode Island, master plumbers and journeymen plumbers in Massachusetts, and electricians in Massachusetts); five at the five per cent level (journeymen plumbers in Rhode Island, hairdresser/cosmetologist out-of-state licensees in Connecticut, barbers in Rhode Island, barbers in Connecticut, and embalmers in Massachusetts); and one at the ten per cent level (registered hairdresser/cosmetologist in Connecticut). Even the two that did not yield statistically significant results (operator/hairdressers in Connecticut and funeral directors in Rhode Island) showed failure rates on exams positively correlated with unemployment.

That failure rates on ten of twelve licensing exams were positively and significantly correlated with unemployment rates (even the two that did not yield statistically significant results nevertheless showed a positive correlation), is powerful evidence for the argument that licensing boards use the examination process to control entry into licensed occupations in order to protect from competition those already licensed. More specifically when labor market conditions worsen, licensing boards tend to fail a higher percentage of applicants for licensure, irrespective of the qualifications of the applicants, in order to reduce the flow of new entrants into the market and thereby strengthen the competitive position of the licensed.

It must be emphasized that what the above analysis has shown is that the use of exams by boards as a restrictive device in response to market conditions is one factor affecting failure rates. Obviously, other factors are operative -- e.g., the native ability of those examined, changes in the composition of the boards conducting the exams, the quality of the exams, the availability and quality of vocoational training, the applicants' level of formal education.

There are elements of this study's analysis of failure rates on licensure exams, other than that based on the statistical regressions discussed above, that raise additional doubts with respect to the validity of the assumptions underlying the examination system and therefore call into question the validity of the system itself.

Are the boards able to determine what are minimum socially acceptable standards of skill and ability? Do they devise exams that reasonably test whether an individual meets those standards? The very substantial differentials in failure rates among the boards suggest that the answer to both of those questions is "No!"

In Massachusetts, over a fifteen year period, 71 per cent failed the master plumber exam and 64 per cent the journeyman exam, rates 72 and 44 per cent greater than the failure rates in Rhode Island over the same period. During the past five years 88 per cent failed the master electrician exam in Connecticut, well over double the 39 per cent failure rate in Rhode Island. And this in the face of the fact that Rhode Island required two years less experience in the plumbing trade than the seven demanded in Connecticut to be eligible to take the exam! Connecticut hairdressers had to satisfy a lengthier educational requirement than those in Rhode Island, but suffered a higher failure rate. The failure rate on dispensing optician exams in Connecticut was four times greater than in Massachusetts (20 per cent as compared with 5 per cent), yet those taking the exams in Connecticut had a minimum of five years of training as compared with the three-year Massachusetts requirement. Applicants for the funeral director exam in Massachusetts must first have nine months of training and education in a board-approved school whereas in Rhode Island no specialized training or education is required. Yet from 8 to 35 per cent failed the exam in Massachusetts during the past fourteen years, while over the same period in Rhode Island none failed to obtain a license. National data on real estate broker and real estate salesman exams indicate similar substantial failure rate differentials among the fifty states.

Not only do the above data reveal wide differentials in failure rates, but they also indicate that there is often an inverse relationship between the amount of training and education required and the probability of success on a licensure exam!

Of the thirty-six licensing examinations covered by this study, by far the highest failure rates were in the eleven construction trade exams. Failure rates on the various licensure exams for plumbers and electricians in the three states were from two to as much as fifteen times greater than the failure rates on the other twenty-five licensure exams. This dispite the fact that the apprenticeship period for plumbers and electricians is generally significantly longer than for the other occupations surveyed.

Restrictions on Advertising: Seven of the licensing laws surveyed in this study contain specific prohibitions against the advertising of prices. In Rhode Island, barbers cannot advertise "prices, fees or charges for performing or rendering any work or service." Massachusetts law prohibits displaying prices in any part of the premises of a barber shop "where they may be read from outside the shop." While the Connecticut law has no such provision, the licensing board members stated that "we tell them it's unprofessional." When asked why there was a restriction on price advertising, the Rhode Island board members responded that it "could lead to unfair competition," and "creates price wars, like in the gasoline industry." Although the restriction on price advertising found in the Rhode Island hairdressers' law has been declared unconstitutional, the similar provision in the Rhode Island barbers' law is still being enforced.

The funeral directors' licensing board in Massachusetts, as part of its regulations, has a "Code of Ethics" which states that "the funeral director is under obligation to be fair with competitors -- refraining from soliciting cases directly -- the offering of free services -- and observing the rules of competition without disparagement or defamation as to price, service, merchandise, or professional standing." This particularly applies to statements made in advertisements. The board has rigorously enforced this aspect of its code.

Both the Rhode Island and Massachusetts electrologist laws contain specific prohibitions against the advertising of price. In Massachusetts, electrologists are also regulated with respect to the size and content of advertisements. The Massachusetts electrologist board has been particularly active in enforcing these provisions.

The opticians' laws in Rhode Island and Connecticut both bar price advertising. The Connecticut law on advertising is so comprehensive (above pp. 106-108), that virtually any advertising by opticians can be found illegal. The Connecticut board minutes indicate considerable activity in enforcing the legislative constraints on advertising and price.

There is no social justification for restrictions on the advertising of price. Information on prices is a vital necessity for the consumer so that he can make a rational choice among the alternative products or services available. Opposition to price advertising is commonly justified on the grounds that it is "unfair competition," "unprofessional" and "unethical." Surely, it is a peculiar ethical standard which requires only those not protected by licensure to engage in price competition.

Work Restrictions and Jurisdictional Disputes: Licensing legislation, regulations promulgated by the boards in interpreting the legislation, and the activities of the boards under those laws and regulations have imposed many work restrictions and generated numerous jurisdictional disputes among workers in different occupations.

Journeymen plumbers in Rhode Island and Connecticut cannot contract for work on their own -- they are classified by the licensing laws as employees. Only master plumbers are permitted to contract for work. In Massachusetts, while a journeyman is permitted to contract for work, he must operate from his home, cannot have a place of business, and cannot employ others. Although the Massachusetts Executive Secretary of the plumbers' board observed that one type of license is enough, he said that master plumbers were strongly opposed, "they are fearful and they have great power." When the chairman of the Rhode Island board was asked what the rationale was for barring journeymen from obtaining work permits, he stated baldly that "it would hurt the master plumber -- it would take away work from him." Yet he admitted that the journeyman is capable of doing all the work on a job!

Rhode Island and Connecticut journeymen electricians are also classified by law as employees and hence barred from contracting to perform electrical work. Master electricians in Massachusetts went to court in an attempt to impose the same restriction on journeymen in that state, but they lost the case. However, while the journeyman in Massachusetts is permitted to contract for work and employ apprentices, he cannot employ other journeymen. In effect, he is required to employ the less skilled individual! Furthermore, the Massachusetts board has barred journeymen from forming partnerships to contract for work.

In Connecticut the electrologist board has been active in preventing nurses from performing electrolysis even under the supervision of a physician. The opticians' board has taken similar actions in Massachusetts in preventing physicians, because they did not have an optician's permit, from employing mechanical opticians. In addition, the Connecticut opticians' board has erected substantial barriers to the importation of optical goods from other states as well as from foreign countries, and barred hearing aid firms from the fitting of hearing aids to the customer's own glasses.

In all three states covered by this study there are severe jurisdictional conflicts between barbers and hairdressers, with barbers wanting to have the right to style and cut women's hair and hairdressers wanting the right to style and cut men's hair and both rejecting the other's claims. The conflict has involved the licensing boards, barbers' unions and hairdresser associations, and legislative bodies acting on licensing legislation. In the conflict, relatively little concern is paid to the consumer.

In Massachusetts, a cemetary owner is barred by law from obtaining a funeral director's license; The funeral director is protected at the expense of possible economies for the consumer. A similar observation can be made with respect to the Massachusetts requirement limiting a funeral director to "one location only" and the Rhode Island provision restricting him to one branch office.

Plumbers' and electricians' licensing laws in all three states place severe restrictions on the employment of apprentices. In Rhode Island and Massachusetts plumbers and electricians are limited to one apprentice per journeyman on any job; in Connecticut the limitation is one apprentice for every two journeymen plus one for the master. In Rhode Island and Massachusetts barber shops are limited to one apprentice per shop. These are all restrictions that place severe barriers on entrance into the various occupations.

None of these work restrictions and jurisdictional divisions of the market can be justified on the grounds of protecting the public's "health and safety." On the contrary, they limit economic opportunity in the labor market and severely narrow the choices available to consumers in the purchase of goods and services.

Qualifications for Licensure and Reciprocity and Endorsement: The qualifications for taking the licensure exam in the various occupations differ significantly among the three states. The applicant for a journeyman plumber's exam requires a 3, 4 or 5 year apprenticeship depending upon, respectively, whether the individual is in Massachusetts, Rhode Island or Connecticut. To proceed to the exam for the master level, the applicant must have been a journeyman for at least one year in Massachusetts and Rhode Island and two years in Connecticut. The same requirements hold for electricians as for plumbers in all three states except that in Rhode Island to be eligible for the journeyman electrician exam takes only two years of apprenticeship.

To be eligible for the dispensing optician exam in Rhode Island or Massachusetts takes a three-year apprenticeship whereas in Connecticut the requirement is five years. In Massachusetts the individual can substitute one year of optical training in a board-approved school for the three-year apprenticeship.

Hairdressers in Connecticut are required to undertake a 2000-hour course of education and training in a board-approved school while Rhode Island demands only 1500 hours to satisfy the eligibility requirement for examination.

In Rhode Island the barber exam can be taken after a two-year apprenticeship. The individual does not have to attend a barber school. After six months (1000 hours) in a barber school and eighteen months of apprenticeship, the barber exam can be taken in Massachusetts. Connecticut requires 1500 hours of study in a barber school, the passing of an apprentice exam, and one year of apprenticeship, plus an additional 144 hours of specialized training before applying for the barber exam.

To be eligible for the funeral director exam in Rhode Island all one needs is an embalmer's license. Massachusetts requires, in addition to possession of an embalmer's license, a nine-month course in funeral directing in a board-approved school.

Eligibility for the electrologist exam in Rhode Island calls for a 400-hour apprenticeship while in Massachusetts the requirement is 1100 hours of training in a board-approved school.

To take the real estate broker's exam in Rhode Island, an individual must have been a real estate salesman for at least one year. Massachusetts, on the other hand, has no such prerequisite.

Reciprocity agreements are in essence bilateral compacts between states. Each agrees to honor the other's license. Under an "endorsement" arrangement, a board honors a license of an individual from another state provided he can demonstrate that he had training and experience roughly equal to that required by the state in which he desires to be licensed.

Since the qualifications for licensure vary so significantly from state to state, it is no surprise that so few laws or boards provide for reciprocity or endorsement. Of the thirty-six licenses covered by this study, only six could be obtained under a reciprocity provision. Furthermore, it is significant that four of those six were the dental hygienist licenses in Rhode Island and Connecticut and the physical therapist licenses in Rhode Island and Massachusetts -- all of which rely upon national and/or regional examinations in testing for licensure. The same four were the only ones of the thirty-six that provided for licensure by endorsement.

The absence of such provisions is a substantial barrier to interstate mobility for those in the licensed occupations. Having acquired a license in one state after an investment of considerable time and effort, an individual would be very reluctant to move to another state where he might not be able to practice his trade. That so few states provide for licensure by reciprocity or endorsement is a severe indictment of the licensing system.

The Licensing Boards: That licensing exams are used to bar entrance into occupations, that work restrictions and jurisdictional disputes are generated by the licensing process, that there are restrictions on price advertising, that licensure by reciprocity or endorsement is so rare, that so little attention is paid to consumer complaints by those institutions regulating licensed occupations, that so few licenses are revoked should not come as any surprise given the composition and powers of the licensing boards.

The boards are, for all practical purposes, autonomous fiefdoms, responsible to no other governmental authority. Although created by legislation, they have wide latitude in interpreting eligibility requirements, in preparing and grading examinations, and in engaging in other activities that may place constraints upon the operation of labor and product markets. But most important of all, they are generally dominated by licensed members of the occupation they are supposed to regulate and frequently are chosen from lists prepared by unions or associations representing the licensed occupations. In essence, they have a vested interest in protecting licensed members of the occupation even if such protection is at the expense of the general public.

Recommendations for reform: As Shimberg, Esser and Kruger have stated:

> The only valid reason for licensing is to protect public health, safety and welfare, The potential harm should either be demonstrated or easily recognizable. No occupation should be licensed if the sole or major intent is to enhance either the professional prestige or economic status of the occupation. Licensing should not be used if other, simpler methods of regulation would satisfy the need to protect the public -- Licensing is appropriate when the public has no other way of identifying the competent practitioners and when the potential danger is so great that the public must be protected against incompetents.[3]

On the basis of those sound criteria and in the light of substantial restrictive practices generated by the licensure system, a strong case can be made for eliminating most if not all of the licensing mechanisms covered by this study. Surely there is no threat to public health and safety in an incompetent barber or hairdresser; any damage they might do to the consumer is not irreversible. Any possibility of the transmission of disease -- a danger commonly cited as a justification for licensing barbers -- can be adequately handled by the enforcement of sanitary standards by the trained staff of health department inspectors. Almost every other aspect of the regulation of barbering and hairdressing seems to be directed toward protecting the economic position of those licensed -- attempts at price fixing, constraints on advertising, excessive training requirements, and limitations on apprenticeship. Is it really necessary to use the awesome powers of the state to pass on the artistry with which an individual can cut or style hair? Similar observations can be made with respect to opticians, plumbers, electrologists, embalmers, funeral directors, and real estate brokers and salesmen.

However, given the vested interests of politically powerful trade unions and trade associations and millions of licensed individual in the existing licensure system, its abolition, however socially desirable, is probably politically impossible. Even reform will be extraordinarily difficult as the following sobering comments of Shimberg, Esser and Kruger indicate:

> One must start by recognizing that the whole institution of occupational licensing is embedded in a morass of federal, state, and local legislation suffused with tradition, custom, and jealously guarded rights. There are clearly no simple solutions. To bring about change would involve not only modifications of hundreds of state laws and local ordinances but also negotiations among dozens of occupational interest groups that have, over the years, managed to achieve some sort of delicate balance within the existing structure. The possibility of change, even relatively minor change, is likely to be perceived as a threat by those who gain not only prestige but also tangible economic benefits from the existing structure. Anyone contemplating change must consider not only its operational aspects, such as amending existing legislation or modifying procedures, but also its psychological aspects -- the way people perceive or respond to the proposed changes. It is probably best to think of modifications in licensing as an ongoing process -- a spiral moving upward from one level to the next -- that will not necessarily be accomplished in one, two, or even five years.[4]

However difficult to achieve, the evidence flowing from this study demonstrates that substantial reform is socially necessary. What are the minimum requirements for effective reform?

1. The autonomous occupation-dominated licensing boards must be eliminated. Members of the licensed occupations must not be in policy making positions where they can regulate trade practices, determine licensure requirements, and control the examination system. In general, *members of the licensed occupations must not be in policy making positions where they can protect and advance the economic interests of the licensed practitioners*.
2. The present licensing boards must be replaced by a responsible administrative agency that would, in so far as is possible, standardize and centralize the examining and licensing functions currently performed by the autonomous boards.
3. Exams should be prepared and corrected by experts, not by members of the licensed occupations. Wherever possible national examinations should be utilized.
4. Members of the occupation should serve the new administrative agency *in a purely advisory capacity*.
5. All price and advertising restrictions must be eliminated. They merely serve to protect those licensed at the expense of the public.
6. Work restrictions that do not serve the public interest -- e.g. restraints on the journeymen's right to contract for work or barbers to style women's hair -- must be abolished.
7. To reduce constraints on mobility, licensing by endorsement

must be mandatory.

8. Citizenship requirements should be eliminated. Non-citizenship is not an indication that the individual is incompetent.

In conclusion, it must be emphasized, that the essential requirement for any serious reform to be effective, is the aboli- of the occupation-dominated licensing board.

FOOTNOTES

1. Shimberg, Esser and Kruger, op. cit., p. 194.
2. The Wall Street Journal, January 8, 1975, p. 1.
3. Shimberg, Esser and Kruger, op. cit., p. 222.
4. Ibid., p. 210.

APPENDIX A

JOURNEYMAN PLUMBER EXAMINATION

JP # ______

JAN. 8, 1975

THE FOLLOWING 20 QUESTIONS ARE WORTH 3 POINTS APIECE -

1. Explain the operation and use of a vacuum valve.
2. What is the result of admitting acids to the septic tank?
3. What is the best method of discharging a septic tank?
4. How is the circumference of a circle found if the diameter is known?
5. How is the range boiler supplied with cold water?
6. How may siphonage of a range boiler be prevented?
7. What is atmospheric pressure?
8. What governs the size of rain leaders?
9. What ways are there for obtaining a water supply when no public water system is available?
10. Which takes up the most room, hot water or cold water?
11. What advantages has continuous venting over crown venting?
12. What pressure should exist in the plumbing system?
13. Of what is water composed?
14. What is evaporation?
15. Is friction of water greater in small or large pipes?
16. Is the action of soft water or hard water generally more severe on supply piping?
17. Why should pipes be increased to 4 inches before passing through the roof?
18. What form of trap should be used for kitchen sinks in hotels or restaurants, or wherever there is much greasy waste?
19. Is it the amount of water in the trap or the depth of seal that offers the most resistance to siphonage?
20. What are the regular sizes of bath tubs?

THE FOLLOWING 4 QUESTIONS ARE WORTH 10 POINTS APIECE -

21. Sketch the waste plumbing in a two family house showing 1 bath and 1 kitchen sink on each floor -
22. Sketch a Bobtail sink and glass rinser on a soda fountain showing proper water and waste connection -
23. Sketch and explain the installation and operation of a grease trap -
24. Sketch a yard catch basin -

MASTER PLUMBER EXAMINATION

JAN. 8, 1975

MP # ______

PART A - EACH QUESTION IS WORTH 4 POINTS

1. Describe what the "Unit of Fixture Discharge" is, and what it is based upon-
2. Name various types of vents in plumbing-
3. May bars and soda fountains have direct or indirect waste connections?
4. How should the waste connections for a dental cuspidor be installed?
5. Describe what a vacuum is-
6. Where are cleanouts generally called for on the plumbing system?
7. Describe how a fixture at the center of a room, such as a barber's lavatory, can be vented-
8. What are three important dangerous conditions met with in the heating of hot water tanks and boilers?
9. What would you do to prevent freezing of the plumbing in a vacant house in cold weather?
10. What is the necessity of ventilating the public garage catch basin?
11. What is a wet vent?
12. What is the usual method of handling drainage which collects below sewer level?
13. Why are kitchen catch basins often placed underground?
14. What is the construction and operation of a garage catch basin?
15. Two circles are 20 feet and 30 feet in diameter. What is the difference in their area?
16. To what class of plumbing fixtures is circuit venting most adapted?
17. Describe the indirect water heater.
18. What three dangerous conditions have to be met in protecting hot water tanks and range boilers from exploding?
19. What is the cause of the collapse of range boilers?
20. What are the two principal types of traps on which all other traps are based?

PART B - EACH SKETCH IS WORTH 4 POINTS - IT IS NECESSARY THAT YOU ATTEMPT TO DO THE SKETCHES.

1. Sketch a blow down tank-
2. Sketch a sewage ejector-
3. Sketch 6 water closets, 6 pedestal urinals, and four lavatories each on two floors showing proper waste and vent sizes-
4. Sketch an area drain, sub soil drain and a yard drain-
5. Sketch a sacristy sink showing proper drainage-

APPENDIX B

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TABLE 25

NATIONAL UNEMPLOYMENT RATE, 1915-1972

Year	Rate	Year	Rate	Year	Rate
1972	5.6	1953	2.5	1934	21.7
1971	5.9	1952	2.7	1933	24.9
1970	4.9	1951	3.0	1932	23.6
1969	3.5	1950	5.0	1931	15.9
1968	3.6	1949	5.5	1930	8.7
1967	3.8	1948	3.4	1929	3.2
1966	3.8	1947	3.6	1928	4.4
1965	4.5	1946	3.9	1927	4.1
1964	5.2	1945	1.9	1926	1.9
1963	5.7	1944	1.2	1925	4.0
1962	5.5	1943	1.9	1924	5.5
1961	6.7	1942	4.7	1923	3.2
1960	5.5	1941	9.9	1922	7.6
1959	5.5	1940	14.6	1921	11.9
1958	5.8	1939	17.2	1920	4.0
1957	4.3	1948	19.0	1919	2.3
1956	3.8	1937	14.3	1918	1.4
1955	4.0	1936	16.9	1917	4.8
1954	5.0	1935	20.1	1916	4.8
				1915	9.7

Source: U. S. Bureau of Labor Statistics.

TABLE 26

CONSTRUCTION UNEMPLOYMENT RATE, 1945-1974

Year	Rate	Year	Rate
1974	10.5	1959	13.4
1073	8.8	1958	15.3
1972	10.3	1957	10.9
1971	10.4	1956	10.0
1970	9.7	1955	10.9
1969	6.0	1954	12.9
1968	6.9	1953	7.2
1967	7.4	1952	6.7
1966	8.0	1951	7.2
1965	10.1	1950	12.2
1964	11.2	1949	13.9
1963	13.3	1948	8.7
1962	13.5	1947	8.8*
1961	15.7	1946	8.9*
1960	13.5	1945	6.0*

*Estimate by author based on national unemployment rate.

Source: U. S. Bureau of Labor Statistics.

* U.S. GOVERNMENT PRINTING OFFICE:1976-211-136/1948